



## **Local Government Act 1972**

**I Hereby Give You Notice** that the **Annual Meeting** of the **Durham County Council** will be held in the **Council Chamber, County Hall, Durham** on **Wednesday 22 May 2024** at **10.00 am** to transact the following business:-

1. To elect a Chair for the ensuing year
2. Presentation to Retiring Chair
3. To elect a Vice-Chair for the ensuing year
4. To confirm the minutes of the meeting held on 27 March 2024 (Pages 5 - 14)
5. To receive any declarations of interest from Members
6. Chair's Announcements
7. Leaders Announcement of Deputy Leader and Cabinet Members
8. Annual Review of the Constitution - Report of Director of Legal and Democratic Services (Pages 15 - 322)
9. Appointment of Council Bodies and allocation of seats to Political Groups under Section 15 of the Local Government and Housing Act 1989 - Report of Director of Legal and Democratic Services (Pages 323 - 330)
10. To appoint Chairs and Vice-Chairs of the following Committees

### **Non-Executive/Regulatory Committees**

- i. Appeals and Complaints Committee

- ii. Audit Committee
- iii. Highways Committee
- iv. Statutory Licensing Committee
- v. Statutory Licensing Sub-Committee
- vi. General Licensing and Registration Committee
- vii. General Licensing and Registration Committee's
- viii. Standards Committee
- ix. County Planning Committee
- x. Area Planning Committee (North)
- xi. Area Planning Committee (Central and East)
- xii. Area Planning Committee (South and West)

### **Pension Fund Committee**

### **Corporate Parenting Panel**

### **Overview and Scrutiny Committees**

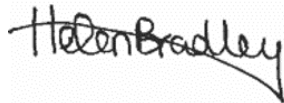
- i. Corporate Overview and Scrutiny Management Board
  - ii. Adults, Wellbeing and Health Scrutiny Committee
  - iii. Children and Young People's Scrutiny Committee
  - iv. Economy and Enterprise Scrutiny Committee
  - v. Environment and Sustainable Communities Scrutiny Committee
  - vi. Safer and Stronger Communities Scrutiny Committee
11. Appointments to Joint and Other Bodies 2024/25 - Report of Director of Legal and Democratic Services (Pages 331 - 340)
  12. Appointment of Independent Members to the Audit Committee - Report of Corporate Director of Resources (Pages 341 - 352)
  13. Statement of Returning Officer - Horden by-election (Pages 353 - 354)
  14. To confirm dates of Ordinary Council meetings for 2024/25

Wednesday 26 June 2024  
 Wednesday 17 July 2024  
 Wednesday 25 September 2024  
 Wednesday 23 October 2024  
 Wednesday 11 December 2024  
 Wednesday 22 January 2025

Wednesday 19 February 2025 (Budget and Council Tax  
Setting)  
Wednesday 26 March 2025

**And** pursuant to the provisions of the above-named act, **I Hereby  
Summon You** to attend the said meeting

Dated this 14th day of May 2024

A handwritten signature in black ink that reads "Helen Bradley". The signature is written in a cursive style with a long, sweeping underline.

Helen Bradley  
Director of Legal and Democratic Services

**To: All Members of the County Council**

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## DURHAM COUNTY COUNCIL

At an **Ordinary Meeting** of the County Council held in the **Council Chamber, County Hall, Durham** on **Wednesday 27 March 2024** at **10.00 am**

**Present:**

### **Councillor J Nicholson in the Chair**

Councillors M Abley, E Adam, R Adcock-Forster, V Andrews, P Atkinson, A Batey, K Batey, A Bell, C Bell, R Bell, C Bihari, G Binney, J Blakey, D Boyes, D Brown, L Brown, J Cairns, J Chaplow, J Charlton, I Cochrane, J Cosslett, B Coult, R Crute, M Currah, S Deinali, T Duffy, K Earley, J Elmer, L Fenwick, C Fletcher, D Freeman, J Griffiths, O Gunn, D Hall, C Hampson, D Haney, A Hanson, K Hawley, P Heaviside, T Henderson, S Henig, J Higgins, L A Holmes, C Hood, A Hopgood, L Hovvels, D Howarth, J Howey, G Hutchinson, A Jackson, M Johnson, N Jones, P Jopling, C Kay, B Kellett, C Lines, R Manchester, C Marshall, C Martin, E Mavin, L Mavin, S McDonnell, M McGaun (Vice-Chair), D McKenna, M McKeon, I McLean, S McMahan, J Miller, P Molloy, D Mulholland, D Oliver, R Ormerod, E Peeke, R Potts, P Pringle, J Purvis, J Quinn, S Quinn, A Reed, G Richardson, S Robinson, K Robson, K Rooney, J Rowlandson, A Savory, E Scott, J Scurfield, P Sexton, K Shaw, A Shield, J Shuttleworth, M Simmons, A Simpson, G Smith, T Smith, M Stead, W Stelling, A Sterling, D Stoker, T Stubbs, A Surtees, D Sutton-Lloyd, P Taylor, F Tinsley, S Townsend, C Varty, E Waldock, M Walton, A Watson, J Watson, M Wilkes, M Wilson, S Wilson, D Wood and R Yorke

Apologies for absence were received from Councillors L Maddison, B McAloon, D Nicholls and S Zair

### **1 Minutes**

The minutes of the meeting held on 28 February 2024 were confirmed by the Council as a correct record and signed by the Chair.

### **2 Declarations of interest**

There were no declarations of interest in relation to any items of business on the agenda.

### **3 Chair's Announcements**

The Chair informed Council that since the last meeting she had attended a number of events on behalf of the County Council, including attendance at a talk by the Mayor of Masafer Yatta, West Bank on 1 March, the North of England Brass Band Competition Gala on 17 March and 'Welcome to Japan Day' on 25 March at the Oriental Museum and Teikyo University.

There had also been a number of successful announcements since the last meeting.

Over £6 million would be committed to tackle homelessness in County Durham following a successful funding bid.

The Council had been awarded funding from the government's Single Homeless Accommodation Programme (SHAP) to create new accommodation and increase support for those who are homeless or at risk of homelessness.

The objective of SHAP was to increase the supply of high-quality accommodation and support for adults, and younger people aged 18 to 25 years, who were either rough sleeping or at risk of rough sleeping.

The Chair was delighted to announce that the Council had been re-awarded the Ministry of Defence's Gold Award as part of its Employer Recognition Scheme.

The award recognised employers which demonstrated positive attitudes and policies towards serving and ex-members of the Armed Forces.

### **4 Leader's Report**

The Leader of the Council informed Council that last week she was proud to sign another landmark devolution deal alongside the leaders of the six other North East councils.

The trailblazer deal would give the region more control over transport, housing and skills, and would provide more than £100 million of additional funding. The funding together with the investment from the original deal, could be invested in priorities identified in the North East.

The Leader was especially proud that this historic document was signed in County Durham, at St Chad's College in Durham University and remarked that she could not think of a more fitting setting for such an occasion than in

the grounds of an institution that had broadened the minds of so many young people.

The historic transfer of power and money from Westminster to the North East would bring immediate benefits to the region but ultimately it would help to build a better future for our children, grandchildren and their children's children.

Securing this deeper devolution deal would empower the Council to go even further to deliver on its ambitions and to work with communities on the things that mattered most to them.

It was also fitting that the trailblazer deal was signed at the beginning of spring which was the season of renewal.

Spring also marked the start of the Council's festival and events programme which was a key part of the Council's efforts to revitalise communities and boost the local economy.

The Leader hoped that Members would join her at Bishop Auckland Food Festival on the 20 and 21 of April in what looked once again to be a great event.

## **5 Questions from the Public**

The Chair informed Council that four public questions had been received for the meeting, from Graham Thomas, Diane Inglis, Stephen Ashfield and Matthew Tough. Diane Inglis on behalf of The Faithful Durhams, Stephen Ashfield and Matthew Tough were in attendance to put their questions. Graham Thomas was unable to attend the meeting but had requested the Chair put his question.

The Chair informed Council that the Constitution allowed for ten minutes for Public Questions. The Chair **Moved** that this time be extended if necessary to allow for all of the questions submitted to be dealt with. **Seconded** by Councillor McGaun and **Agreed**.

The Chair then put Graham Thomas's question which was as follows:

HS2 Devolved £73m

I would like to ask if NW County Durham, Consett and Stanley in particular, will benefit from this money. We miss out quite significantly - the majority of monies goes to go to Durham City and South of the county, it appears.

The roads around here are potholed and poor, and the bus services to and from Durham and Newcastle end way too early.

We need more EV chargers too.

The Chair informed Council that Mr Thomas would receive a written response to his question.

Diane Inglis, The Faithful Durhams then put the following question:

Our question today is brought about because we were promised something different to what is actually happening at the Museum site. It was going to be about the DLI and not Art Galleries and the desecration of ashes. We were promised on separate occasions by the Joint Administration during site visits that topsoil would be lifted prior to work beginning. Our recent reply from the Chief Executive of Council states that "no ashes were in the area currently worked on" – we dispute this and have submitted an FOI request asking the Council to provide a copy of the report for the evidence of this. Whilst we await this response can we formally request that work stops on the grounds immediately until a respectful solution can be found for the mess that has been created?

Councillor E Scott, Cabinet Portfolio Holder for Economy and Partnerships thanked Diane Inglis for her question and provided the following response:

Before I respond to your question, I must make a clarification as you misquote the letter to you from the Chief Executive. What it said was:

*Before the tree removal works began, our contractors were made aware that ashes may have been scattered across the grassed area in front of the pond and the sloped area leading down to it. The tree felling area has been taped off and any trees felled are done so away from where ashes may have been scattered.*

In 2022, the Cabinet of Durham County Council agreed to bring the DLI Museum and Art Gallery back into use as a vibrant community asset and world class visitor attraction refurbished and expanded to include dedicated space for the display of key objects from the DLI Collection, as well as spaces to house world class temporary exhibitions to attract residents and visitors. These plans have not changed.

We have carried out essential works to remove some existing trees and shrubs in order to prepare the site ahead of construction commencing. Where possible and suitable we have retained the felled trees and chippings on site to reuse within the grounds as potential natural footways and external furniture.



The removal of the trees was included in the relevant planning application approved on 16th February 2023 and which was subject to public consultation.

We know the grounds have a strong historical and personal significance to many people. The council has no record of any permissions granted for the scattering of ashes on the site. However, throughout the project we have worked closely with key stakeholders, including the official DLI veteran association and affiliates, to understand the wishes of the veteran community. We are aware that ashes may have been scattered across the grassed area in front of the pond and the sloped area leading down to it. As a result, we have taken significant steps to treat these areas with sensitivity and respect. We have been clear throughout that our intention is to carefully remove the topsoil from these areas before construction works commence, and to preserve and carefully re-lay the soil in a new reflective garden area.

Stephen Ashfield put the following question:

As Chair of Shincliffe Parish Council and a concerned resident, I seek clarity on a critical issue affecting our community's safety, specifically regarding the Council's implementation of the Department for Transport's Circular 01/2006 guidelines for setting local speed limits.

Can the council provide an update on whether the assessment for village status under the Department for Transport's Circular 01/2006 has been carried out for areas like Shincliffe, and if so, what measures are being taken to ensure the implementation of the recommended 30mph speed limits in accordance with this directive?

Thank you for addressing this matter of public safety and community.

Councillor E Scott, Cabinet Portfolio Holder for Economy and Partnerships thanked Stephen Ashfield for his question and provided the following response:

The assessment for village status, under the Department for Transport's Circular 01/2013, has been carried out and reviewed, on a number of occasions, most recently 2019, for the area of Shincliffe adjacent to A177. On each occasion the reasonable minimum criteria for the definition of what constitutes a village, for the purpose of applying a village speed limit of 30 mph, has not been met and since 2019, there has been no fundamental development within the vicinity that would warrant a status change. Therefore, in accordance with the directive, no measures are currently being taken to implement a 30mph limit.

Matthew Tough put the following question:

My question relates to HMOs in East Durham. Does the Council consider that they are keeping in line with their duty under the Crime and Disorder Act 1998 by allowing HMOs when they are aware that the houses will have visitors who will stay the night as in every other type of accommodation, making them immediately overcrowded and therefore allowing widespread Criminal Offences to occur for every HMO in East Durham given that the Council have no powers to prevent visitors from doing this?

Councillor J Rowlandson, Cabinet Portfolio Holder for Resources, Investment and Assets thanked Mr Tough for his question and provided the following response:

The Council is responsible for the regulation of housing conditions in houses in multiple occupation (HMOs).

In line with relevant housing legislation we have adopted standards for all houses in multiple occupation which stipulate minimum space requirements for rooms which are intended to be used as sleeping accommodation to prevent overcrowding.

The council will take appropriate action in relation to any HMO which fails to meet these minimum standards or comply with occupancy requirements.

Notwithstanding the above, any HMO or private tenant or house owner has a right to have visitors in their home. As such the Council is not at liberty to impose restrictions on visiting guests and it is not reasonable to expect the Council to know where and when visiting guests are staying overnight. The occupancy number of an HMO is based on those who will live in the property and does not include guests of the resident.

The Council has a duty under the Crime and Disorder Act 1998 to consider the impact of all their functions and decisions on crime and disorder in their local area. In this regard, the Council undertakes its statutory duties and uses its available powers to improve housing conditions and prevent crime, disorder and anti-social behaviour.

Should there be any concerns about any individual HMO within County Durham particularly in relation to housing condition, overcrowding or anti social behaviour then these should be reported to the Council so that the matter can be investigated, and appropriate action taken, as necessary.

## **6 Petitions**

There were no petitions for consideration.

## 7 Report from the Cabinet

The Council noted a report from the Cabinet which provided information on issues considered at its meeting held on 13 March 2024 (for copy see file of Minutes).

## 8 Appointments to the North East Mayoral Combined Authority

The Council considered a report of the Head of Legal and Democratic Services which sought to make appointments to the North East Mayoral Combined Authority in advance of its first scheduled meeting on 7 May, following the Mayoral Election on 2 May 2024 (for copy see file of Minutes).

**Moved** by Councillor A Shield, **Seconded** by Councillor J Rowlandson and

### **Resolved:**

That:

- (a) The Leader of the Council (Cllr Amanda Hopgood) be appointed as Durham County Council's member of the North East Mayoral Combined Authority; and
- (b) Councillor Richard Bell (the Deputy Leader and Portfolio Holder for Finance) and Councillor Elizabeth Scott (Portfolio Holder for Economy and Partnerships) be appointed as substitute members.

## 9 Independent Remuneration Panel - Appointments to Panel

The Council considered a report of the Corporate Director of Resources regarding appointments to the Independent Remuneration Panel (for copy see file of Minutes).

**Moved** by Councillor A Hopgood, **Seconded** by Councillor R Crute and

### **Resolved:**

That the recommendations in the report be approved.

## 10 Motions on Notice

The Chair informed Council that there was one Motion for consideration.

**Moved** by Councillor K Shaw, **Seconded** by Councillor A Batey

This council calls on the Cabinet to consider an immediate halt to all activity on the former DLI Museum site, for the current development proposal to be cancelled and replaced with a memorial garden and a space for reflection and remembrance.

Councillors E Scott, R Bell, K Robson, A Savory, L Brown, P Heaviside, R Potts, P Molloy, J Quinn, D Sutton-Lloyd, M Wilkes, J Elmer, T Stubbs, A Hopgood, M McGaun and J Rowlandson spoke against the Motion.

Councillors J Scurfield, D McKenna, A Surtees, F Tinsley, L Fenwick, B Kellett, M McKeon, C Kay, O Gunn spoke in support of the Motion.

Councillor P Sexton considered that the DLI situation had been poorly communicated and that the issue should not be a party political matter.

The Chair informed Council that there was 15 minutes left for the consideration of Motions and ten Councillors were registered to speak. Councillor A Hopgood **Moved** a Motion without notice that the time for Motions be extended but that the length of the meeting not be extended beyond 2½ hours. **Seconded** by Councillor E Scott and **Agreed** by Council.

A named vote on the Motion was taken.

#### **For the Motion**

Councillors E Adam, R Adcock-Forster, V Andrews, P Atkinson, A Batey, K Batey, C Bihari, G Binney, D Boyes, J Chaplow, I Cochrane, R Crute, S Deinali, K Earley, L Fenwick, C Fletcher, J Griffiths, O Gunn, D Hall, C Hampson, A Hanson, S Henig, J Higgins, L Hovvels, M Johnson, C Kay, B Kellett, R Manchester, C Marshall, D McKenna, M McKeon, I McLean, S McMahan, J Miller, D Mulholland, P Pringle, J Purvis, S Quinn, J Scurfield, K Shaw, G Smith, T Smith, A Surtees, P Taylor, F Tinsley, S Townsend, C Varty, E Waldock, J Watson, M Wilson, S Wilson, D Wood and R Yorke

#### **Against the Motion**

Councillors M Abley, R Bell, C Bell, J Blakey, D Brown, L Brown, J Charlton, J Cosslett, B Coult, M Currah, T Duffy, J Elmer, D Freeman, D Haney, K Hawley, P Heaviside, T Henderson, L Holmes, C Hood, A Hopgood, D Howarth, J Howey, G Hutchinson, A Jackson, N Jones, P Jopling, C Lines, C Martin, E Mavin, L Mavin, S McDonnell, M McGaun, P Molloy, J Nicholson, D Oliver, R Ormerod, E Peeke, R Potts, J Quinn, A Reed, G Richardson, S Robinson, K Robson, K Rooney, J Rowlandson, A Savory, E Scott, A Shield, J Shuttleworth, M Simmons, A Simpson, M Stead, W Stelling, A Sterling, D Stoker, T Stubbs, D Sutton-Lloyd, M Walton, A Watson and M Wilkes.

#### **Abstention**

Councillor P Sexton

The Motion was **Lost**.

## **11 Questions from Members**

Councillor P Sexton asked the following question:

At the January 2024 Full Council, a motion to reconsider the withdrawal of Free After 2pm parking, was unanimously passed.

Could the Cabinet and Portfolio Holder, please provide Full Council with an update on any decision?

Councillor E Scott, Cabinet Portfolio Holder for Economy and Partnerships thanked Councillor Sexton for his question and provided the following response:

At Full Council on Wednesday 14 January 2024, Cabinet accepted a motion, which was approved after a vote, to reconsider the decision to end Free Parking After 2pm and that process is currently ongoing and will be reconsidered by Cabinet as previously committed.

Councillor Sexton asked a supplementary question in relation to the timeframe for reconsideration issue.

Councillor Scott commented that the issue had financial implications, therefore it had to go through a process of scrutiny. Unfortunately, on that basis any decision would be a matter of months and not weeks.

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**Council**

**22 May 2024**

**Annual Review of the Constitution**



**Report of Helen Bradley, Director of Legal & Democratic Services  
and Monitoring Officer**

**Councillor Amanda Hopgood, Leader of the Council**

**Electoral division(s) affected:**

All

**Purpose of the Report**

- 1 To present the proposed changes to the Council's Constitution following the annual review process.

**Executive summary**

- 2 The Council's Constitution sets out how the Council operates, how decisions are made, and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people.
- 3 The Constitution is reviewed on an annual basis. The last review of the Constitution was presented to Council for adoption on 24 May 2023.

**Recommendation(s)**

- 4 Council is recommended to:
  - (a) approve the proposed changes to the Constitution to take immediate effect; and
  - (b) request that the Director of Legal and Democratic Services publishes the amended Constitution on the Council's website.

## Background

- 5 Section 9P of the Local Government Act 2000 requires local authorities operating executive arrangements to prepare and keep up to date a document (their Constitution) which contains:
- (a) a copy of the authority's standing orders;
  - (b) a copy of the authority's code of conduct for its members and co-opted members;
  - (c) such information as the Secretary of State may direct, and
  - (d) such other information (if any) as the authority considers appropriate.
- 6 The Council must ensure that copies of its constitution are available at its principal office for inspection by members of the public at all reasonable hours and must supply a copy of its constitution to any person on request.

## Methodology

- 7 Preparations for the annual review of the Constitution due to be considered by Council on 22 May 2024 commenced in the autumn of 2023, with service representatives being contacted to request that they consider what, if any, changes they believed were appropriate to the Constitution.
- 8 The proposed changes are set out below. Where applicable, relevant extracts of the Constitution showing the proposed changes are provided in **Appendices 1-15** of this report. A table summarising the proposed changes is included at **Appendix 15**.
- 9 There are a number of minor amendments which seek to delete or add single words to correct grammar or numbering errors, or to clarify relevant paragraphs. These are not set out specifically in this report but are reflected in the Table of Changes at **Appendix 15** and within the relevant appendices by way of tracked changes.

## Job Titles

- 10 It is proposed to change the job titles as set out below to reflect changes within services since the last Constitution review.
- (a) 'The Head of Highway Services' is now the 'Head of Highways'.
  - (b) The 'Head of Culture, Sport' is now the 'Head of Culture, Sport and Tourism.'



- (c) The ‘Corporate Risk Manager’ is now the ‘Risk, Insurance and Governance Manager.’
- (d) The ‘Corporate Procurement Manager’ is now the ‘Chief Procurement Officer.’
- (e) The ‘Head of Legal and Democratic Services Manager’ will become the Director of Legal and Democratic Services with effect from 1 May 2024.

## **Part 2 – Articles of the Council**

### **Article 4 – the Full Council**

- 11 Paragraph 4.2(a) refers to Local Development Frameworks, which no longer exist. It is therefore proposed to amend this reference to the “County Durham Plan (Plans and alterations that together form the Development Plan).
- 12 It is proposed to include the Council’s Homelessness Strategy within the Council’s Budget and Policy Framework, which would mean it requires approval by full Council. The Housing Strategy is already part of the framework. It is understood that this was agreed following local government re-organisation. Given the close links between the Housing and the Homelessness Strategy it is considered appropriate for both documents to be approved by Council.
- 13 These proposed changes are illustrated in the extract appearing at **Appendix 2.**

## **Part 3 – Allocation of Responsibilities**

### **Part 3A – Matters Reserved to the Council and Terms of Reference and Delegation of Duties to Committees and Sub-Committees of the Council**

#### **Overview and Scrutiny**

- 14 Para 1.1(n) currently states that the Chair and Vice-Chair of Corporate Overview and Scrutiny Management Board shall be “additional members of all other Scrutiny Committees,” which is incorrect. They are members but not “additional members.” It is therefore proposed to amend this to reflect that the Chair and Vice Chair of Corporate Overview and Scrutiny Management Board also sit on the thematic scrutiny committees.
- 15 The objectives of Environment and Sustainable Communities Overview and Scrutiny Committee set out at paragraph 1.5 (a) to (d) refer to a previous version of the Council Plan. It is therefore proposed to update

them to reflect the objectives in the current plan which are creating a physical environment that will contribute to good health, working with others to achieve a carbon neutral county, reducing the impact of waste and pollution on our environment and producing, restoring and sustaining our natural environment for the benefit of future generations.

### **Audit Committee**

- 16 In February 2024, the Audit Committee held a workshop to review their effectiveness. They considered the role and responsibilities of the Committee as set out in the CIPFA guidance “Guiding the Audit Committee: Supplement to the Audit Committee Member Guidance.” The Committee’s work programme is consistent with the best practice guidance; however it has been identified that the terms of reference in the Constitution are out of date. It is therefore proposed to revise the terms of reference so that they reflect the CIPFA Guidance. The revised terms of reference, which are attached at **Appendix 3** include responsibility for scrutiny of the Council’s treasury management performance. Members of the Committee will receive training with regard to this scrutiny role.

### **Statutory Licensing Committee**

- 17 Paragraph 2.4 of Part 3A currently states that the Statutory Licensing Committee is a sub-committee of the General Licensing and Registration Committee, which is incorrect. It is proposed to amend this to clarify that the Statutory Licensing Committee comprises of 15 Members of the Council drawn from 27 Members of the General Licensing and Registration Committee.

### **Other Bodies**

#### **Chief Officer Appointment Committee**

- 18 Historically, the Leader and Deputy Leader of the Council have always been the Chair and Vice-Chair of the Chief Officer Appointments Committee, which is appropriate given the role of the Committee. It is proposed that this convention is formalised by an amendment to the Terms of Reference to reflect that the Leader and Deputy Leader of the Council will be Chair and Vice-Chair of the Committee. This would remove the need for these appointments to be made at the annual meeting of Council.

## Joint Arrangements

### Health and Wellbeing Board

- 19 There are a number of changes proposed to reflect changes to the membership of the Board as well as its functions. There have been significant changes to the membership of the Board which have been amended. In terms of its functions, additional wording has been added for clarification. For example, the Joint Strategic Needs Assessment is now the Joint Strategic Needs and Assets Assessment and the Joint Health and Wellbeing Strategy is now the Joint Local Health and Wellbeing Strategy. Information has been added to explain the role of these, and other assessments and strategies. The proposed changes can be found at **Appendix 3**.

### Safe Durham Partnership

- 20 The review has identified that there is no reference to the Council's Statutory Community Safety Partnership. It is proposed to correct this anomaly by including the terms of reference for the Safe Durham Partnership in a new paragraph 4.10. The proposed changes are set out at **Appendix 3**.

### **Part 3A – Matters reserved to the Council and Terms of Reference and Delegation of duties to Committees and Sub-Committees of the Council**

- 21 In advance of the annual meeting of Council, Constitution Working Group will be asked to consider a proposed amendment to the arrangements of the Chief Officer Appointments Committee (COAC) to reflect that the Leader and Deputy Leader of the Council will be the Chair and Vice-Chair of the Committee. This has always been the case since the Committee was established and is appropriate given its responsibilities regarding the appointment and dismissal of the Chief Executive and Chief Officers. This amendment would mean that there would no longer be a requirement to appoint to these positions at the annual meeting of Council.
- 22 The proposed change is a matter for Council to approve. If Constitution Working Group are supportive of the proposal, it will be included within the report presented to the annual meeting of Council for approval.

## **Part 3C – Officer Delegations**

### **Delegations to the Chief Executive (Table 2)**

- 23 It is proposed to update Table 2 to reflect the Chief Executive’s role as Acting Returning Officer at UK Parliamentary elections for completeness and to ensure the scheme of delegation reflects the Association of Electoral Administrators guidance. The proposed changes are set out at **Appendix 4**.
- 24 With effect from 1 May 2024, the Director of Legal and Democratic Services will report directly to the Chief Executive in accordance with best practice. Accordingly, the delegations to the Head of Legal and Democratic Services, which currently sit under the Corporate Director of Resources will need to move from Table 8.

### **Delegations to the Corporate Director for Regeneration, Economy and Growth (Table 3)**

- 25 Responsibilities in relation to the conservation of the built environment have migrated to the Head of Planning and Housing, under the Corporate Director for Regeneration, Economy and Growth from the Director of Neighbourhoods and Climate Change. It is therefore proposed that the relevant delegations under the Corporate Director for Neighbourhoods and Climate Change are moved under the Head of Planning and Housing.
- 26 Table 3 is currently drafted on the basis that the Corporate Director for Regeneration, Economy and Growth is responsible for all matters in relation to the Council’s statutory duties as a local housing authority. However, some of these duties sit under the Corporate Director for Neighbourhoods and Climate Change. It is proposed that Table 3 is amended for accuracy. Corresponding changes are proposed in relation to the scheme of delegation for the Corporate Director for Neighbourhood and Climate Change (paragraph 32 below refers). These proposed changes are illustrated in the extract appearing at **Appendix 5**.
- 27 The Scheme of Delegation currently includes responsibilities for transport, which are delegated from the North East Combined Authority (NECA) to the Council. It is anticipated that delegations will be required in relation to the functions of the North East Mayoral Combined Authority. These are still being identified and will be the subject of a separate report.

## **Delegations to the Director of Public Health (Table 5)**

- 28 At paragraph 12 of Table 5, it is proposed to remove a duplicate reference to the Council's responsibilities in relation to communicable and infectious diseases including healthcare acquired infections, which are covered under paragraph 1(c) of Table 5. These proposed changes are illustrated in the extract appearing at **Appendix 6**.

## **Delegations to the Corporate Director of Children and Young People's Services (Table 6)**

- 29 Officers in Children and Young People's Services have reviewed their Corporate Director's Scheme of Delegation (Table 6). They advise it would be more helpful if the respective powers of each Head of Service were set out in more detail for clarification. Consequently, Table 6 has been substantively re-written. The amendments do not however include the delegation of any new powers and relate to existing functions already discharged by the relevant officers. These proposed changes are illustrated in the extract appearing at **Appendix 7**.

## **Delegations to the Corporate Director of Neighbourhoods and Climate Change (Table 7)**

- 30 The Environment, Health and Consumer Protection team is now called the Community Protection Service. Therefore, it is proposed that all references to the service name are updated accordingly.
- 31 In addition to the changes proposed at paragraph 25 above it is proposed that the list of Executive Functions is amended to include reference to safer communities, private sector housing regulation, public health protection and infectious disease outbreak control, special criminal investigations including tobacco control and operational community safety. This will ensure that the functions of the Community Protection Service are properly reflected.
- 32 There are a number of delegated powers in relation to enforcement functions, licensing and registration which require consultation with the Head of Legal and Democratic Services. Such consultation is only required in certain circumstances such as in relation to the instigation of legal proceedings. It is therefore proposed to clarify that consultation with the Head of Legal and Democratic Services (Director of Legal and Democratic Services from 1 May) is required "where appropriate".
- 33 As referred to above, the Community Protection Service also has responsibility for the discharge of the Council's housing duties. It is therefore proposed to include delegations relating to private sector housing, enforcement and selective licensing.

- 34 It is also proposed to include reference to the powers in relation to the issue and revocation of scrap metal dealers licences in accordance with the Scrap Metal Dealers Act 2013.
- 35 It is also proposed to make some minor amends to clarify the provisions in relation to paragraph 9 of Table 7 of the Constitution and the planning and delivery requirements for welcoming and supporting refugees seeking asylum, including capacity within the County as part of the Government Migration Programme.”
- 36 Appendix 1 of Table 7 sets out the ‘Delegation of Licensing Act 2003 responsibilities’. It is proposed to update the provisions in relation to temporary event notices to reflect that Environmental Health Officers as well as the police can object to temporary event notices. It is also proposed to amend references to “representations” in respect of temporary event notices to “objection notices” so that the terminology is consistent with the wording in the legislation.
- 37 These proposed changes are illustrated in the extract appearing at **Appendix 8.**

### **Delegations to the Corporate Director of Resources (Table 8)**

- 38 The Corporate Director of Resources has delegated authority to terminate employment of staff by reason of early retirement with voluntary redundancy where there is a cost to the Council associated with the early release of pension benefits, in consultation with the relevant Portfolio Holder. It is proposed to amend the punctuation to clarify that the Corporate Director of Resources also has authority to terminate employment by reason of early retirement or voluntary redundancy where there is no cost to the Council.
- 39 In August 2023, a proposal to introduce a flat rate weekly charge of £5 per week for those in residential care and £7.50 per week for those living in the community for the provision of an appointeeship service was agreed. This was implemented from 1 October 2023. It is proposed to include a delegated power to the Corporate Director of Resources to be able to review and amend the policy.
- 40 There a number of minor changes proposed to the delegations relating to Corporate Finance and Commercial Services, which are intended to clarify the scope of powers rather than add to them. set out in paragraphs 40 - 42 of this report below.
- 41 Regulations made under the Local Government Finance Act 1992 require each billing authority to calculate its ‘council tax base’ for the following financial year. Therefore, it is proposed to include provision “to set the Council Tax Base at Local Council level and to forecast and

manage the Council's Collection Funds, making adjustments to principal precepting bodies as appropriate.

- 42 Responsibility for maintaining accounting records in relation to the Pension Fund sits with the Head of Pensions rather than the Head of Corporate Finance and Commercial Services. It is therefore proposed that these will be moved to the relevant section of Table 8.
- 43 The review has highlighted that the references to appeals in relation to disputes under the Local Government Pension Scheme are very limited and only relate to stage 2 of the process. It is therefore proposed to clarify arrangements by including responsibility for implementing and maintaining an appeals process under the dispute procedure for the Local Government Pension Scheme under the Head of Pensions and Stage 2 appeals within the remit of the Head of Legal and Democratic Services.
- 44 These proposed changes are illustrated in the extract appearing at **Appendix 9.**

### **Council Procedure Rules**

- 45 It is proposed that rule 1.1(ii) deleted as it refers to Coronavirus legislation that is no longer in force.
- 46 It is also proposed to correct a numbering error at paragraph 12.5 which has two paragraphs 12.5(a).
- 47 These proposed changes are illustrated in the extract appearing at **Appendix 10.**

### **Executive Procedure Rules**

- 48 Paragraph 1.2 of Part 4D – Executive Procedure Rules references Article 6, which relates to 'Overview and Scrutiny Arrangements'. However, it should refer to The Executive, which is Article 5.
- 49 These proposed changes are illustrated in the extract appearing at **Appendix 11.**

### **Financial Procedure Rules**

- 50 There are very few substantive changes recommended to the Financial Procedure Rules. However, minor amendments have been made to aid clarity and reflect legislative changes. The proposed amendments appear in **Appendix 12.**
- 51 As explained at paragraph 16 above, the revised terms of reference include responsibility for the scrutiny of the Council's treasury

management performance. It is therefore proposed to include reference to this within paragraph 2.3.1 of the Finance Procedure Rules, which sets out the role of the Audit Committee.

- 52 It is proposed to make some substantial changes to Appendix A to the Finance Procedure Rules to reflect a number of changes in the Financial Management Standards. Some of the documents have been amalgamated and numbers not reallocated, therefore there are gaps in the numbering. An existing and proposed Appendix A are appended at **Appendix 12** to this report for Members' consideration.
- 53 These proposed changes are illustrated in the extract appearing at **Appendix 12**.

### **Contract Procedure Rules**

- 54 No substantive changes are recommended to the Contract Procedure Rules. However, minor amendments have been made to aid clarity and reflect legislative changes. The proposed amendments appear in **Appendix 13**.

### **Code of Practice for Members and Officers Dealing with Planning Matters**

- 55 It is recommended that reference to the Audit Commission be removed from the Code as it has been replaced by the National Audit Office.
- 56 In January 2024, Lawyers in Local Government ("LLG") issued an updated model Members Planning Code of Good Practice to its members. LLG's model code has been said (by the Supreme Court) to offer "sound practical advice."
- 57 Officers reviewed the provisions of the LLG model Code and whilst it is not felt that adopting it wholesale would be in the best interests of the Council at this time, there are several provisions within it that officers consider ought to be incorporated into the Code of Practice.
- 58 The main amendments relate to highlighting and clarifying the respective roles, responsibilities and duties of members and officers at planning committees. In particular, the proposed amendments to paragraph 3.4 of the Code emphasise the potential risks to members if planning applications are not determined in accordance with legal requirements.
- 59 The proposed paragraph 9.2 clarifies the professional duties to which planning officers are subject.



- 60 Proposed paragraphs 11.3 and 11.4 of the Code of Practice offer some advice to members regarding their use of social media or contact with applicants during committee meetings.
- 61 The final main element of the proposed amendment attempts to address issues raised by members and officers in respect of site visits by members of the committee. It is therefore proposed that paragraph 10 of the Code of Practice be amended to expressly clarify the roles of relevant parties before and during site visits.
- 62 The proposed amendments appear in **Appendix 14**.

### **Background Papers**

None

### **Other useful documents**

None

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## **Appendix 1: Implications**

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### **Legal Implications**

The statutory requirements in relation to the Council's Constitution are set out in paragraph 5 of this report.

### **Finance**

The review of the Constitution has no financial implications.

### **Consultation / Engagement**

Constitution Working Group considered the proposed changes to the Constitution at its meetings on 22 February, 19 March and 10 May 2024. The Group were supportive of the proposed changes.

### **Equality and Diversity / Public Sector Equality Duty**

None specific for this report.

### **Climate Change**

None specific for this report.

### **Human Rights**

None specific for this report.

### **Crime and Disorder**

None specific for this report.

### **Staffing**

None specific for this report.

### **Accommodation**

None specific for this report.

### **Risk**

None specific for this report.

### **Procurement**

None specific for this report.

## Appendix 2

### Article 4 – The Full Council

#### 4.1 Introduction

This Article defines the functions that are reserved for decision by the full Council. The Council is responsible for approving the policy framework and the annual revenue and capital budget. The Council also retains responsibility for (i) regulatory functions (which include planning, licensing and health and safety at work); (ii) certain constitutional and quasi-legislative functions (primarily the conduct of elections and making of by-laws); and (iii) most of the local choice functions which the Council is free to decide whether they are the responsibility of full Council or the Executive. The Council also has a role in holding the Executive to account.

#### 2. Meanings

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

- i. Council Plan
- ii. Sustainable Community Strategy
- iii. County Durham Plan (Plans and alterations that together form the Development Plan) ~~Local Development Framework (Plans and alterations that together form the Development Plan)~~
- iv. County Durham Youth Justice Plan
- v. ~~Housing Strategy~~
- vi. ~~Homelessness Strategy~~
- v. Licensing Authority Policy Statement
- vi. Statement on Gambling Policy
- vii. Any other plan or strategy which the Council determines should be adopted or approved by them.

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

#### 4.3 Functions of the full Council

The functions of full Council are set out in Part 3A of the Constitution.

#### 4.4 Council meetings

There are three types of Council meeting:

i.the annual meeting;

ii.ordinary meetings;

iii.extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution. Meetings will be chaired by the Chair or Vice-Chair of the Council.

## Appendix 3

### Part 3A - Matters Reserved to the Council and Terms of Reference and Delegation of Duties to Committees & Sub-Committees of the Council

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## Full Council

Comprised of all 126 elected Members, the full Council is responsible for:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework and the budget;
- (c) subject to the urgency procedure contained in the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget;
- (d) appointing and removing the Leader;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.5 and amending, revoking or replacing such a scheme;
- (h) confirming and terminating the appointment of the head of paid service;
- (i) receive the final accounts for information;
- (j) those non-executive functions specified as being the responsibility of the Council in this Constitution;
- (k) Subject to any provision of regulations under section 20 (joint exercise of functions) of the Local Government Act 2000 (“the 2000 Act”), the functions of:
  - i. making arrangements for the discharge of functions by a joint committee or officer under section 101(5) of the Local Government Act 1972 (“the 1972 Act”); and
  - ii. making appointments under section 102 (appointment of committees) of the 1972 Act;
- (l) Functions relating to elections as set out in Section D of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulation 2000 (“the 2000 Regulations”);

- (m) Functions relating to name and status of areas and individuals as set out in Section E of Schedule 1 to the 2000 Regulations;
- (n) Functions relating to changing governance arrangements as set out in Section EA of Schedule 1 to the 2000 Regulations;
- (o) Making an order giving effect to recommendations made in a community governance review under section 86 (reorganisation of community governance) of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”);
- (p) Functions relating to community governance as set out in Section EB of Schedule 1 to the 2000 Regulations;
- (q) Power to make, amend and revoke byelaws;
- (r) Promotion or opposition of local or personal Bills;
- (s) Power to make standing orders;
- (t) Power to make standing orders as to contracts;
- (u) Powers in relation to staff under section 112 of the 1972 Act unless delegated to a committee or an officer;
- (v) Duty to make arrangements for the proper administration of the Council’s financial affairs;
- (w) Appointment of “proper officers” for particular purposes under the 1972 Act;
- (x) Duty to designate an officer as the head of the council’s paid service and to designate an officer as the monitoring officer and to provide them with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed;
- (y) Dismissal of Statutory Officers in accordance with the procedure set out in the Officer Employment Procedure Rules;
- (z) Functions relating to sea fisheries; and
- (aa) all other matters which, by law, must be reserved to the Council.



## Committees / Sub-Committees of the Council

**Responsibility for Non-Executive or Council functions** (\* Denotes a local choice function)

- (a) The Council will appoint Members to the Committees set out in this Part. The committees may then appoint sub-committees or panels to consider and, where appropriate, determine any matter falling within the remit of the committee.
- (b) The committees may co-opt to their membership or the membership of any sub-committee or panel, person(s) from outside the Council having an interest in the business of the committee, sub-committee or panel but such co-opted person(s) may not vote on any matter.
- (c) Certain non-executive functions have been delegated to officers. Details of those delegations can be found in the Officer Scheme of Delegations at Part 3C of the Constitution. The committees set out below may from time to time add to or alter those delegations, as appropriate, within their functional responsibilities.

## 1. Overview and Scrutiny

### 1.1 Corporate Overview and Scrutiny Management Board

Comprising 26 Members of the Council including the Chairs and Vice Chairs of the other 5 Scrutiny Committees, this Committee will:

- (a) Oversee and co-ordinate the work of Overview and Scrutiny and its committees.
- (b) Ensure effective liaison across the work of the committees re: cross cutting issues.
- (c) Be a strategic driver of the Overview and Scrutiny function.
- (d) Consider as appropriate scrutiny member involvement in regional scrutiny arrangements within the context of any regional strategies.
- (e) Establish appropriate liaison with the Executive in the interests of achieving common aims and continuous improvement for the Council.
- (f) Encourage appropriate community involvement in the Overview and Scrutiny role.
- (g) Consider the Council Plan and Notice of Key Decisions and to monitor performance against these plans.
- (h) Deal with petitions in accordance with the Council's Protocol for petitions.
- (i) Consider the Council's annual budget.
- (j) Assist the Executive in the development of the Council's annual budget and to review and scrutinise budgetary management.
- (k) Assist the Executive in ensuring the provision of efficient and effective corporate management and support arrangements.
- (l) Assist the Executive in the development of asset management.
- (m) Scrutinise delivery of the County Durham Vision 2035 and Council Plan ambition of an excellent council and associated objectives of:
  - i. Our resources will be managed effectively.
  - ii. We will create a workforce for the future.
  - iii. We will design our services with service users.
  - iv. We will use data and technology more effectively.
  - v. We will actively performance manage our services.

- vi. Fewer people will be affected by poverty and deprivation in the County.
- (n) The Chair and Vice-Chair of [the Corporate Overview and Scrutiny Management Board](#)~~this main scrutiny committee~~, shall be ~~additional~~ members of all other Scrutiny Committees.
- (o) In the event of any educational related matter being subject to call-in, the 7 voting faith and parent governor representatives shall be invited to attend the Corporate Overview and Scrutiny Management Board that considers that call-in.

## 1.2 Adults Well-Being and Health Overview and Scrutiny Committee

This Committee will be the Council's designated Health Scrutiny Committee in accordance with the Health and Social Care Act 2012.

Comprised of 21 Members of the Council plus up to 2 non-voting co-optees, the Adults, Well-being and Health Overview and Scrutiny Committee will scrutinise delivery of the County Durham Vision 2035 ambitions of People live long and Independent Lives and Council Plan objectives in relation to Adults wellbeing and Health of:

- (a) Better integration of health and social care services.
- (b) People will be supported to live independently for as long as possible by delivering more homes to meet the needs of older and disabled people.
- (c) Tackling the stigma and discrimination of poor mental health and building resilient communities.
- (d) Promotion of positive behaviours.
- (e) Lead on the review and scrutiny of NHS Services, Adults social care, Health inequalities and improvement and Public Health Service.

## 1.3 Children and Young People's Scrutiny Committee

Comprised of 21 Members of the Council including the Chair or Vice Chair of Corporate Parenting Panel plus 7 voting faith and parent governor representatives and up to 2 non-voting co-optees, including young people, the Children and Young People's Scrutiny Committee will scrutinise delivery of the County Durham Vision 2035 ambitions of More and Better Jobs, People Live Long and Independent Lives and Connected Communities in relation to Children and Young People and Council Plan objectives of:

- (a) Young people will have access good quality education, training and employment.
- (b) Children and young people will enjoy the best start in life, good health and emotional wellbeing.

- (c) Children and young people with special educational needs and disabilities will achieve the best possible outcomes.
- (d) All children and young people will have a safe childhood.

## 1.4 Economy and Enterprise Overview and Scrutiny Committee

Comprised of 21 Members of the Council and up to 2 non-voting co-optees, the Economy and Enterprise Overview and Scrutiny Committee will scrutinise delivery of the County Durham Vision 2035 ambitions of More and Better Jobs and Connected Communities and Council Plan objectives of:

- (a) Delivery of a range of employment sites across the county.
- (b) A strong, competitive economy and County Durham will be a premier place in the North East to do business.
- (c) A broader experience for residents and visitors to the county.
- (d) People will have good access to workplaces, services, retail and leisure opportunities.
- (e) Helping all people into rewarding work.
- (f) Standards will be maintained or improved across County Durham's Housing stock.
- (g) Delivery of new high-quality housing which is accessible and meets the needs of our residents.

## 1.5 Environment and Sustainable Communities Overview and Scrutiny Committee

Comprised of 21 Members of the Council and up to 2 non-voting co-optees, The Environment and Sustainable Communities Overview and Scrutiny Committee will scrutinise delivery of the County Durham Vision 2035 ambitions of People Live Long and Independent Lives and Connected Communities in relation to the Environment and sustainable communities and Council Plan objectives of:

- (a) Creating a physical environment that will contribute to good health.
- ~~(b)~~ Our towns and villages will be vibrant, well used, clean, attractive and safe. Working with others to achieve a carbon neutral county.
- ~~(b)~~~~(c)~~ Reducing the impact of waste and pollution on our environment.
- ~~(c)~~~~(d)~~ People will have good access to workplaces, services, retail and leisure opportunities. Protecting, restoring and sustaining our natural environment for the benefit of future generations.

## 1.6 Safer and Stronger Communities Overview and Scrutiny Committee

This Committee shall be the Crime and Disorder Committee for the purposes of Part 3 of the Police and Justice Act 2006.

Comprised of 21 Members of the Council with up to 2 non-voting co-optees, plus co-opted employees or officers of a responsible authority or of a co-opting person or body, in accordance with Crime and Disorder (Overview and Scrutiny) Regulations 2009. The Safer and Stronger Communities Overview and Scrutiny Committee will scrutinise delivery of the County Durham Vision ambitions of People Live Long and Independent Lives and Connected Communities in relation to safer and stronger communities and Council Plan objectives of:

- (a) Promotion of positive behaviours.
- (b) Our villages and villages will be vibrant, well used, clean, attractive and safe. Communities will come together to accept and support each other.

## 2. Regulatory Bodies

### 2.1 Audit Committee

#### 1. Governance

- 1.1 The Audit Committee is an advisory committee to both the Council and the Executive. The Committee's purpose is to provide an independent and high-level focus on the adequacy of governance, risk and control arrangements. Its role in ensuring there is sufficient assurance over the governance, risk and control gives greater confidence to Cabinet and Full Council that the arrangements are effective.
- 1.2 The Committee has oversight of both internal and external audit, together with the financial and governance reports, helping to ensure there are adequate arrangements in place for both internal challenge and public accountability.
- 1.3 The Chair of the Audit Committee reports on the work undertaken by the Committee to Full Council.
- 1.4 To help maintain its independence, the Audit Committee has the right to meet privately with the External Auditor and the Chief Internal Auditor and Corporate Fraud Manager as considered necessary.
- 1.5 The Audit Committee can request employees, elected members, partners, contractors and the public to attend meetings in order to seek information and explanations as is considered necessary to fulfil its role.
- 1.6 The Committee has access to other committees, e.g. Overview and Scrutiny, from which it can gain assurance on the adequacy and effectiveness of the Council's governance arrangements.

#### 2. Composition and Meetings

- 2.1 The membership of the Audit Committee shall comprise of nine Members of the Council and two co-opted non-voting members.
- 2.2 A quorum of three elected members (including the Chair or Vice Chair) is required for decisions of the Committee to be ratified.
- 2.3 The Chair of the Audit Committee will be independent of the Executive and will not be the Chair of a Scrutiny Committee or the Standards Committee.

- 2.4 The Audit Committee will meet at least four times a year. Meetings will be open to the public, but they may be excluded where information of an exempt or confidential nature is being discussed.

### **3. Terms of Reference**

#### **Governance, Risk and Control**

- 3.1 To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework, and consider the local code of governance.
- 3.2 To monitor the effective development and operation of risk management in the Council.
- 3.3 To monitor progress in addressing risk-related issues reported to the Committee.
- 3.4 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- 3.5 To consider reports on the effectiveness of financial management arrangements, including compliance with CIPFA's Financial Management Code.
- 3.6 To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- 3.7 To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- 3.8 To monitor the counter fraud strategy, actions and resources.
- 3.9 To review the governance and assurance arrangements for significant partnerships or collaborations.

#### **Financial and Governance Reporting**

##### **Governance Reporting**

- 3.10 To review and approve the Annual Governance Statement (AGS) prior to approval and consider whether it properly reflects the risk environment and supporting assurances, including the head of internal audit's annual opinion.

3.11 To consider whether the annual elevation for the AGS fairly concludes that governance arrangements are fit for purpose, supporting the achievement of the authority's objectives.

### **Financial Reporting**

3.12 To monitor the arrangements and preparations for financial reporting to ensure that statutory requirements and professional standards can be met,

3.13 To approve 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.

3.14 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

3.15 To provide independent and effective assurance over the adequacy of the Council's financial management and reporting, treasury management strategy, risk management framework, and other processes required to achieve the Council's corporate and service objectives.

### **Arrangements for audit and assurance**

3.16 To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.

### **External Audit**

3.17 To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.

3.18 To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.

3.19 To consider specific reports as agreed with the external auditor/

3.20 To comment on the scope and depth of external audit work and to ensure that it gives value for money.

3.21 To consider additional commissions of work from external audit.



3.22 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

3.23 To provide free and unfettered access to the Audit Committee Chair for the auditors, including the opportunity for a private meeting with the Committee.

### **Internal Audit**

3.24 To approve the internal audit charter.

3.25 To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.

3.26 To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.

3.27 To approve significant interim changes to the risk-based internal audit plan and resource requirements.

3.28 To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.

3.29 To consider any impairments to the independence or objectivity of the Head of Internal Audit arising from additional role or responsibilities outside of internal auditing and to approve and periodically review safeguards to limit such impairments.

3.30 To consider reports from the Head of Internal Audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:

- updates on the work of internal audit, including key findings, issues of concern and action in hand as a result of internal audit work.
- regular reports on the results of the Quality Assurance and Improvement Programme (QUAIP).
- reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards (PSIAs) and Local Government Application Note (LGAN), considering whether the non-conformance is significant enough that it must be included in the AGS.

- 3.31 To consider the Head of Internal Audit's annual report, including:
- the statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement (these will indicate the reliability of the conclusions of internal audit).
  - the opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control, together with the summary of the work supporting the opinion (these will assist the committee in reviewing the AGS).
- 3.32 To consider summaries of specific internal audit reports as requested.
- 3.33 To receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- 3.34 To contribute to the QAIP and in particular to the external quality assessment of internal audit that takes place at least once every five years.
- 3.35 To consider a report on the effectiveness of internal audit to support the AGS where required to do so by the accounts and audit regulations.
- 3.36 To provide free and unfettered access to the Audit Committee Chair for the Head of Internal Audit, including the opportunity for a private meeting with the Committee.

#### **Accountability arrangements**

- 3.37 To report to those charged with governance on the Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.
- 3.38 To report to full council on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.
- 3.39 To publish an annual report on the work of the Committee, including a conclusion on the compliance with the CIPFA Position Statement.

~~The Audit Committee is comprised of 9 Members of the Council, excluding Members of the Executive and Executive Support Members, and 2 co-opted non-voting Members. A Chair of the Corporate Overview and Scrutiny Management Board, any other Scrutiny Committee or the Standards Committee may not chair the Audit Committee.~~

~~In particular the Audit Committee :~~

~~*On audit matters:*~~

- ~~(a) — consider the Head of Internal Audit's annual report and opinion, and a summary of Internal Audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements;~~
- ~~(b) — consider summaries of Internal Audit reports on a quarterly basis;~~
- ~~(c) — consider reports dealing with the performance of the Internal Audit service;~~
- ~~(d) — consider a report from Internal Audit on agreed audit recommendations not implemented within a reasonable timescale;~~
- ~~(e) — consider the External Auditor's annual letter, relevant reports, and the report to those charged with governance;~~
- ~~(f) — consider specific reports as agreed with the External Auditor;~~
- ~~(g) — consider the External Audit plan, comment on the scope and depth of external audit work, and to ensure it gives value for money;~~
- ~~(h) — review the appointment of the Council's External Auditor;~~
- ~~(i) — within available resources be able to request work from Internal and External Audit.~~

~~*On governance issues:*~~

- ~~(j) — maintain an overview of the Council's Constitution in respect of changes to contract procedure rules and financial procedure rules;~~
- ~~(k) — review any issue referred to it by the Chief Executive or a chief officer, or any Council body;~~
- ~~(l) — monitor the effective development and operation of risk management and overall corporate governance in the Council;~~

~~(m) monitor the operation of the Council's anti-fraud and anti-corruption policies and strategy;~~

~~(n) monitor and oversee the Council's arrangements for meeting its responsibilities under Health and Safety legislation.~~

~~On matters:~~

~~(o) ;~~

~~(p) ;~~

~~(q) overview of probity aspects of internal and external audit;~~

~~(r) overview of the Council's Confidential Reporting Code.~~

## 2.2 General Licensing and Registration Committee

Comprised of 27 Members of the Council the General Licensing and Registration Committee is responsible for:

- (a) Reviewing and making recommendations to the Council where appropriate on policies in relation to the licensing functions set out below.
- (b) Except where the matter is delegated to a Sub Committee or to an officer:
  - i. To discharge the Council's licensing and regulatory functions as set out in Section B of Schedule 1 to the 2000 Regulations, in relation to:
    - hackney carriages and private hire vehicles;
    - sex shops and sex cinemas and sexual entertainment venues and licensing matters provided for in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982;
    - market and street trading;
  - ii. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.
- (c) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area.

## 2.3 General Licensing and Registration Sub-Committees

There are three General Licensing and Registration Sub-Committees, each comprised of 4 Members of the Council plus either a Chair or Vice-Chair, appointed by the Head of Legal and Democratic Services on a rota basis. The quorum for a meeting of this committee shall be 3 and the panels will be identified by the Head of Legal and Democratic Services for each scheduled meeting at the start of the municipal year. The Sub-Committees will discharge all of the functions of the General Licensing Committees except policy development and matters delegated to officers.

## 2.4 Statutory Licensing Committee

The Statutory Licensing Committee ~~comprises of~~ ~~is a sub-committee of the General Licensing and Registration Committee and is comprised of~~ 15 Members of the Council drawn from the 27 members of the General Licensing and Registration Committee, who, whilst predominantly serving the Statutory Licensing Committee and its sub committees, can when occasion demands also serve on other sub committees of the General Licensing and Registration Committee. The functions discharged by the Statutory Licensing Committee are:

- (a) To review and make recommendations to Council upon policies in relation to licensing matters under the Licensing Act 2003 and the Statement of Licensing Policy.
- (b) To discharge the Council's functions as a Licensing Authority under the Licensing Act 2003, within agreed policy.
- (c) To review and make recommendations to Council upon policies in relation to licensing matters under the Gambling Act 2005 and the Statement of Principles.
- (d) To discharge the Council's functions as a Licensing Authority under the Gambling Act 2005, within agreed policy.
- (e) To arrange for the discharge of any of the Licensing functions exercisable by the Committee by an Officer of the Licensing Authority subject to the limitations set out in section 10(4) of the Licensing Act 2003 and section 154 of the Gambling Act 2005.
- (f) To discharge any other function of the Council which relates to a matter which is a licensing function under the Licensing Act 2003 or the Gambling Act 2005, but which is not such a licensing function after consideration of a report from the committee within whose remit that other function falls.

## 2.5 Statutory Licensing Sub-Committees

There are 3 Statutory Licensing Sub-Committees, each comprised of 4 Members sitting with the Chair or Vice-Chair, appointed by the Head of Legal and Democratic Services. The quorum for meetings of these Sub-Committees shall be 3 and only 3 of the 5 who are asked to attend will make up the actual sub-committee, the remaining 2 to be substitutes if need arises. Each Statutory Licensing Sub-Committee will discharge all of the functions of the Statutory Licensing Committee except policy development and matters delegated to officers.

## 2.6 Area Planning Committees

There are three Area Planning Committees:

- i. North Durham (comprising the former District Council areas of Chester le Street and Derwentside)
- ii. Central and East Durham (comprising the former District Council areas of Durham City and Easington)
- iii. South and West Durham (comprising the former District Council areas of Sedgefield, Teesdale and Wear Valley)

with each area committee comprised of 16 Members of the Council excluding Members of the Executive. Except where the matter is delegated to an officer, Area Planning Committees will have the following functions for the areas:

- (a) Functions relating to town and country planning and development control as set out in Section A of Schedule 1 to the 2000 Regulations unless those matters fall within the remit of the County Planning Committee
- (b) Power to make limestone pavement order
- (c) Powers relating to the protection of important hedgerows
- (d) Powers relating to the preservation of trees
- (e) Powers relating to complaints about high hedges.

## 2.7 County Planning Committee

Comprising 16 Members of the Council, excluding Members of the Executive. The County Planning Committee is responsible for the following, except where delegated to an officer:

- (a) To exercise the Council's functions relating to town and country planning and development control as set out in Section A of Schedule 1 to the 2000 Regulations, in relation to the following matters:

- i. Residential development proposals involving 200 or more dwellings or a site area of 4 hectares or more.
  - ii. All non-residential development proposals (including commercial, retail and industrial developments) of 10,000 or more square metres floorspace or a site area of 2 hectares or more.
  - iii. Development proposals involving the erection of one or more wind turbines described as Medium-Large or Large and having a height in excess of 40 metres to the blade tip or a site area of 1 hectare or more.
  - iv. Applications for renewable energy developments (including Biomass, Hydro-Electric, Geothermal, Gasification or Photovoltaics) of 1 hectare or more.
  - v. All development proposals relating to minerals or waste.
- (b) Development which in the opinion of the Head of Planning Services is of strategic significance, including strategic schemes promoted by the County Council.

## 2.8 The Standards Committee

The Standards Committee comprises 11 Council Members with two non-voting co-optees from the parish councils.

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Members and Co-opted Members of the Council and Parish and Town Council Members;
- (b) assisting Members and Co-opted Members of the Council and Parish and Town Council Members to observe the Members' Code of Conduct and where appropriate, the Planning Code of Practice;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct and the Planning Code of Practice;
- (d) monitoring the operation of the Members' Code of Conduct and the Planning Code of Practice;
- (e) advising, training or arranging to train Members and Co-opted Members of the Council and Parish and Town Council Members on matters relating to the Members' Code of Conduct and Planning Code of Practice;
- (f) granting dispensations to Members and Co-opted Members of the Council from requirements relating to interests set out in the Members' Code of Conduct and Planning Code of Practice in circumstances where this function has not been delegated to the Monitoring Officer;

- (g) to approve the arrangements under which allegations of a failure to comply with Council's Code of Conduct for Members can be investigated and decisions on allegations can be made, pursuant to section 28(6) of the Localism Act 2011.
- (h) To approve the appointment of at least one independent person to discharge the functions set out in section 28(7) of the Localism Act 2011.
- (i) the assessment and/or referral for investigation of allegations of misconduct on the part of Members and Co-opted Members of the Council and Parish and Town Council Members, if requested to undertake this function by the Monitoring Officer;
- (j) the determination of allegations of misconduct on the part of Members and Co-opted Members of the Council and Parish and Town Council Members;
- (k) dealing with any alleged breach by a Member of a Council Protocol, in accordance with procedures approved by the Committee;
- (l) overview of the Officers' Code of Conduct;
- (m) overview of the Protocol on Member / Officer Relations.



## 3. Other Bodies

### 3.1 Appeals and Complaints Committee

30 Members of the Council will form this Committee, with individual appeals or complaint hearings being conducted by Sub-Committees of 3 Members of the Committee, appointed by the Head of Legal and Democratic Services on a rota basis. The quorum for meetings of this Sub-Committee shall be 3, and it will discharge the following functions:

- (a) The determination of an appeal made against any decision made by or on behalf of the Council including staff disciplinary and grievance appeals.
- (b) Consideration of complaints under Stage 3 of the Council's Corporate Complaints Policy and Procedure, where referred by the Head of Legal and Democratic Services.

### 3.2 Chief Officer Appointment Committee

Comprised of 11 Members of the Council including the Leader and Deputy Leader, the Chief Officer Appointment Committee will expand to include 2 voting co-opted Independent Persons in the case of proposed disciplinary action against a Statutory Officer, and shall be responsible for:

- (a) Appointment of the Chief Executive (subject to confirmation by the full council) and chief officers and associated functions under Section 112 of the Local Government Act 1972 in relation to those officers.
- (b) Dismissal of Chief Officers, subject to the provisions contained in the Officer Employment Procedure Rules regarding the dismissal of Statutory Officers.
- (c) Appointment and dismissal of the Director of Public Health (committee to act as advisory appointments committee, the appointment is subject to the approval of the Secretary of State for Health)
- (d) To make recommendations to Full Council regarding a decision to dismiss a Statutory Officer.
- (e) To approve the creation of posts where the salary package is £100,000 or more which will be reported to the next convenient meeting of Council for information.
- (f) To approve officer severance packages of £100,000 or more which will be reported to the next convenient meeting of Council for information.

### 3.3 Corporate Parenting Panel

The Corporate Parenting Panel is formed of 21 Members of the Council including the member of the Executive or Executive Support for Children and Young People's Services and the Chair or Vice-Chair of Children and Young People's Overview and Scrutiny Committee, plus a maximum of 10 non-voting Co-opted Members, consisting of school representatives and representatives from other agencies. The functions of the Corporate Parenting Panel are:

- (a) To ensure that the Council acts as a good corporate parent to children and young people in care and care leavers, including:
  - i. Children and Young people in residential care
  - ii. Children and Young people in foster care
  - iii. Children and Young people placed for adoption
  - iv. Children and Young people placed at home under Care Planning, Placement and Case Review Regulations
  - v. Young people who are living in supported lodgings
  - vi. Young people in secure services
  - vii. Young people in custody
- (b) To engage and listen to the views of children, young people and their carers for whom the Council is the parent.
- (c) To work in partnership with other statutory agencies to drive forward improvements in care.
- (d) To act as the governing body for the Virtual School for looked after children and young people.
- (e) To act as the governing body for Aycliffe secure services, monitoring and ensuring the quality of secure accommodation.

### 3.4 Highway Committee

Formed of 21 Members of the Council, except where the matter is delegated to an officer, the Highway Committee is responsible for:

- (a) Functions relating to public rights of way as set out in Part 1 of Section I of Schedule 1 to the 2000 Regulations in cases where objections have been made and not withdrawn.
- (b) Providing guidance to the Corporate Director for Neighbourhoods and Climate Change as appropriate, in relation to the exercise of delegated functions under the Road Traffic Regulation Act 1984, where objections have been made and not withdrawn.

- (c) Providing guidance to the Corporate Director for Neighbourhoods and Climate Change as appropriate, in relation to the exercise of delegated functions under sections 4, 5, 6 and 7 of the Local Government (Miscellaneous Provisions) Act 1953 where objections or representations are made and not withdrawn.
- (d) Any other non-executive functions specified in the 2000 Regulations relating to highways or public rights of way which require a statutory notice or consultation and where objections have been made and not withdrawn.
- (e) To discharge the Council's licensing, registration and regulatory functions in relation to common land and town and village greens.
- (f) Providing guidance to the Corporate Director for Neighbourhoods and Climate Change as appropriate, in relation to the exercise of delegated functions to determine proposals to appropriate or dispose of open space or public walks and pleasure grounds as set out in Section 10 of the Open Spaces Act 1906 and Section 164 of the Public Health Act 1875, if there are any unresolved objections to the proposals.

### 3.5 Pension Fund Committee

The Pension Fund Committee is comprised of:

- (a) 11 Members of the Council
- (b) 2 Members appointed by Darlington Borough Council
- (c) 1 Member representing the Further Education Colleges
- (d) 1 Member drawn from other statutory bodies including Police, Fire, Probation, Town and Parish Councils
- (e) 1 Member representing Admitted Bodies
- (f) 2 Scheme Member representatives

and is responsible for exercising the Powers and duties arising from Section 7 of the Superannuation Act 1972 and Regulations made thereunder including:

- (a) approval of applications from bodies seeking admission to the Local Government Pension Scheme
- (b) appointment of external investment managers and advisers

as well as discharging the Council's functions relating to local government pensions other than policy formulation and review.

## 4. Joint Arrangements

### 4.1 Health and Wellbeing Board

This Board comprises of:

- (i) representatives nominated by the Leader being currently:
  - a. Portfolio Holder for Adult and Health Services;
  - b. Portfolio Holder for Children and Young People's Services; and
  - c. ~~Portfolio Holder for Deputy Leader and Finance~~ Deputy Leader of the Council and Portfolio Holder for Finance
- (ii) representation from ~~each Clinical Commissioning Group;~~ the North East and North Cumbria Integrated Care Board;
- (iii) a representative from Local Healthwatch;
- (iv) Corporate Director of Adult and Health Services;
- (v) Corporate Director of Children and Young People's Services;
- ~~(vi)~~ (vi) Corporate Director of Regeneration, Economy and Growth (nominated housing representative is the Strategic Manager for Housing);
- ~~(vi)~~ (vii) Director of Public Health (also a member of the County Durham Environment and Climate Change Partnership)
- ~~(vii)~~ (viii) Director of Integrated Community Services (a joint representative of Durham County Council and Health Partners).
- ~~(viii)~~ a representative from the housing section (Housing Solutions)

and nominated representation from each of the following:

- (ix) Chief Executive of Tees Esk and Wear Valley NHS Foundation Trust;
- (x) Chief Executive of County Durham and Darlington NHS Foundation Trust;
- (xi) Chief Executive of City of Sunderland NHS Foundation Trust;
- (xii) Chief Executive of North Tees and Hartlepool NHS Foundation Trust;
- (xiii) Chief Executive of Harrogate and District NHS Foundation Trust;
- (xiv) Office of Police and Crime Commissioner;
- (xv) County Durham and Darlington Fire and Rescue Service;
- (xvi) Durham University;
- (xvii) Durham Community Action;
- (xviii) County Durham Economic Partnership;
- ~~(xv)~~ (xix) County Durham Care Partnership – Lay Member for Engagement.

The Health and Wellbeing Board has the following roles and functions:

- (a) Promote integrated working between commissioners of health services, public health and social care services, for the purposes of advancing the health and wellbeing of the people in its area;

- (b) Encourage those who provide services related to wider determinants of health, such as housing, to work closely with the Health and Wellbeing Board;
- (c) Develop and agree the Joint Strategic Needs and Assets Assessment (“JSNAA”), Joint Local Health and Wellbeing Strategy (“JLHWS”) which provides an overview of the current and future health and wellbeing needs of the people of County Durham and
- ~~(e)~~(d) produce a Pharmaceutical Needs Assessment (“PNA”) which looks at the current provision of pharmacy services across County Durham, and whether there are any potential gaps to service delivery;
- ~~(d)~~(e) Be involved throughout the process as the Integrated Care Board develops its Strategy and ensure they take account of the County Durham Joint Local Health and Wellbeing Strategy when developing this; CCGs develop their commissioning plans and ensure they take proper account of the JHWS when developing these plans;
- ~~(e)~~(f) Provide advice and assistance or other support as it thinks appropriate for the purposes of encouraging the making of arrangements under Section 75 of the National Health Service Act 2006; and
- ~~(f)~~(g) Sign off the Better Care Fund Plan.

## 4.2 The Joint Health Overview and Scrutiny Committee

The Joint Health Overview and Scrutiny Committee is established in accordance with section 244 and 245 of the National Health Service Act 2006. This Joint Committee is made up of 12 members, comprising 1 from each of the 12 constituent Authorities. The purpose of the Joint Committee is to scrutinise issues around the planning, provision and operation of health services in and across the North-East region, comprising for these purposes of the areas covered by all the constituent Authorities. A copy of the terms of reference and protocol can be obtained from the Scrutiny Officer upon request.

## 4.3 County Durham Care Partnership Executive

The Executive provides system wide leadership and accountability for the delivery of integrated service models within County Durham’s health and care sector.

## 4.4 County Durham Safeguarding Adults Inter-agency Partnership

- i) The County Durham Safeguarding Adults Inter-Agency Partnership is a range of public authorities who share a duty to keep adults in County

Durham safe from abuse, harm and neglect. It comprises representatives from:

- a. Durham Constabulary
  - b. Children and Adults Services - Durham County Council
  - c. County Durham Clinical Commissioning Group (from 1st July 2022 will be known as Integrated Care System)
  - d. Primary Care - NHS North Durham Clinical Commissioning Group (from 1st July 2022 will be known as Integrated Care System)
  - e. Tees, Esk and Wear Valley Foundation Trust
  - f. County Durham and Darlington NHS Foundation Trust
  - g. Age UK Durham
  - h. Her Majesty's Prison Service
  - i. Care Quality Commission
  - j. National Probation Service
  - k. NHS England
  - l. The Fire Service
  - m. Higher/Further Education
- ii) And fulfils the following functions:
- a. The promotion of health and wellbeing for adults with needs for care and support, and carers.
  - b. Communicating and engaging with wider agencies and communities of interest to help to make adults safer, and ensure the 'voice' of adults is heard.
  - c. Complying with local policy, monitoring that compliance and measuring its effectiveness.
  - d. Reviewing and analysing safeguarding activity across the partnership to identify and action improvements.
  - e. Monitoring the impact safeguarding training provision;
  - f. Maintaining and strengthening links and reporting to relevant forums, such as, the Local Safeguarding Children Partnership, Safe Durham Partnership, Health and Wellbeing Board and Overview and Scrutiny Committees;
  - g. Working in cohesive and collaborative ways with statutory and non-statutory partners;
  - h. Regularly reviewing the governance arrangements and checking statutory obligations are being complied with.

#### 4.5 Durham Safeguarding Children Partnership

- i) Durham Safeguarding Children Partnership (DSCP) was established in April 2019 following the dissolution of the Local Safeguarding Children's Board by the Children Act 2004, as amended by the Children and Social Work Act 2017.

- ii) There are three Statutory Safeguarding Partners in Durham, namely County Durham Clinical Commissioning Group, Durham County Council (Children and Young People’s Service) and Durham Constabulary.
- iii) The Safeguarding Partners share responsibility for ensuring effective local safeguarding arrangements.
- iv) The relevant agencies required to provide virtual representation or representation at subgroups, development session and agency groups are:
  - a. County Durham & Darlington NHS Foundation Trust.
  - b. Tees, Esk & Wear Valleys NHS Foundation Trust.
  - c. Harrogate & District NHS Foundation Trust.
  - d. North Tees and Hartlepool NHS Foundation Trust.
  - e. City Hospitals Sunderland NHS Foundation Trust.
  - f. North East Ambulance Service.
  - g. Durham Voice (Voluntary Sector).
  - h. Further Education Settings.
    - (i) Bishop Auckland College.
    - (ii) New College Durham.
    - (iii) East Durham College.
    - (iv) Derwentside College.
  - i. Children and Family Court Advisory and Support Service (Cafcass).
  - j. Education.
  - k. Independent Schools.
  - l. Schools.
  - m. Public Health.
  - n. National Probation Service Durham.
  - o. Durham Tees Valley Community Rehabilitation Company.
  - p. County Durham Youth Offending Service.
  - q. Housing Services.
  - r. NHS England.
  - s. The Local Authority Adult & Health Services.
  - t. The Local Authority Early Help, inclusion and vulnerable children Services.
  - u. The Local Authority Legal Services.
  - v. The Prison Service.
  - w. County Durham & Darlington Fire & Rescue Service.
  - x. British Transport Police.
  - y. Faith Groups.
- v) Out of the relevant agencies, there will be 4 agency groups that will be expected to meet and provide assurance reports to the Executive Group on an annual basis. Relevant agencies will not be required to attend every meeting but will nevertheless have a part to play in the business of the Durham Safeguarding Children Partnership.

- vi) And fulfils the following functions to support and enable local organisations and agencies to work together in a system where children are safeguarded, and their welfare promoted.
  - a. partner organisations and agencies collaborate, share and co-own the vision for how to achieve improved outcomes for vulnerable children
  - b. organisations and agencies challenge appropriately and hold one another to account effectively
  - c. there is early identification and analysis of new safeguarding issues and emerging threats
  - d. learning is promoted and embedded in a way that local services for children and families can become more reflective and implement changes to practice
  - e. information is shared effectively to facilitate more accurate and timely decision making for children and families
- vii) In order to work together effectively with local organisations and agencies the Safeguarding Partners will develop processes that:
  - a. facilitate and drive action beyond usual institutional and agency constraints and boundaries
  - b. ensure the effective protection of children is founded on practitioners developing lasting and trusting relationships with children and their families.

#### **4.5 Durham Police and Crime Panel**

The Police and Crime Panel is established under the Police Reform and Social Responsibility Act 2011. The Panel is made up of 7 members from Durham County Council, 3 members of Darlington Borough Council and 2 independent co-opted members. All members of the Police and Crime Panel, including independent co-opted members, may vote in proceedings of the panel. The purpose of the Panel is to scrutinise and support the work of the Police and Crime Commissioner. The terms of reference and rules of procedure can be obtained from the Monitoring Officer upon request.

#### **4.6 County Durham and Darlington Fire and Rescue Authority**

County Durham and Darlington Fire and Rescue Authority is a combined authority created by the Durham Fire Services (Combination Scheme) Order 1996. Membership comprises of 21 Members from Durham County Council and 4 Members from Darlington Borough Council (representation from each authority being determined by the size of the electoral representation within each authority). The Fire Authority's political balance is also a reflection of that



of the two local authorities. The Authority is a legal body with statutory duties and responsibilities which include:

- a. Providing a safe and effective operational response to meet a wide range of incidents, including fires, road traffic collisions, building collapse, water rescue, including flooding, rope rescue, hazardous materials incidents and mass decontamination, national and international rescue.
- b. Participating in the National Resilience Programme which prepares for and responds to major emergencies and unexpected events such as natural disasters or terrorist incidents. The resources maintained to support this programme include High Volume Pumps, Mass Decontamination Equipment and hazardous materials specialists who are trained to detect, identify and monitor chemicals.

#### **4.7 North East Combined Authority**

This body brings together the four councils which serve County Durham, Gateshead, South Tyneside and Sunderland. The ambition of the Authority is to create the best possible conditions for growth in jobs, investment and living standards, to make the North East an excellent location for business, to prioritise and deliver high quality infrastructure and to enable residents to raise their skill levels and to benefit from economic growth long into the future.

#### **4.8 The Mountsett Crematorium Joint Committee**

This Joint Committee operates under an Agreement dated 8 September 1983 (which was supplemental to earlier Agreements) made between Derwentside District Council and Gateshead Borough Council. The purpose of the Agreements is to provide and maintain a crematorium to serve the areas of the respective councils, known as the Joint Crematorium District. On 1 April 2009 Durham County Council assumed the rights and liabilities of Derwentside District Council under the Agreements referred to above. On 19 June 2019 the Full Council of Durham County Council agreed to update/amend the terms of reference and its Constitution.

#### **4.9 The Central Durham Crematorium Joint Committee**

This Joint Committee operates under an Agreement dated 3 May 1983 made between Durham City Council and Spennymoor Town Council. The purpose of the Agreement is to provide and maintain a crematorium to serve the areas of the respective councils. On 1 April 2009 Durham County Council assumed the rights of liabilities of Durham City Council under the Agreement referred to above. On 19 June 2019 the Full Council of Durham County Council agreed to update/amend the terms of reference and its Constitution.

## 4.10 The Safe Durham Partnership

The Safe Durham Partnership forms part of the delivery mechanism for the Count Durham Vision 2035, with a remit to deliver the following vision objectives and also work with other partnerships on shared priorities and cross-cutting issues. Along with its subgroups, it takes the lead on delivering the following Vision objectives:

- A future free from harm due to drug and alcohol misuse
- Support for victims to cope, recover and engage in the justice system
- To work with communities most affected by long-term empty properties
- Tackle crime and anti-social behaviour
- Address the underlying causes of crime and community tensions
- Actively take steps to encourage community cohesion
- Provide a range of activities and opportunities to divert people away from crime and anti-social behaviour
- Approach to selective licensing of private landlords

The Safe Durham Partnership works closely with the Durham Safeguarding Children Partnership and the Durham Safeguarding Adults Partnership to make sure that the appropriate measures are in place to safeguard the county's children, young people and adults.

## Appendix 4

### Part 3C - Delegations to Officers

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## Table 1 - General Delegations to all Chief Officers

1. The Chief Officers referred to in this scheme of delegations are those set out in Article 9 of this Constitution.
2. Chief Officers are empowered to carry out those specific functions of the Council delegated to them in the scheme of delegation. In doing so Chief Officers are expected to follow principles of decision making in Article 10 of the Constitution.
3. Functions are to be construed in a broad and inclusive fashion and include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.
4. In exercising their delegated powers Chief Officers may:
  - (a) Incur, vary and withdraw expenditure including the making of contributions to outside bodies whose objects are complementary to the work of the Council.
  - (b) In consultation, where appropriate, with the relevant Cabinet Portfolio Member, introduce, set and vary as necessary fees and charges for the delivery of services and for the issue of any licence, registration, permit, consent or approval.
  - (c) Deal with the following employment issues in accordance with the Council's procedures:
    - i. engage, suspend, dismiss and deploy staff up to and including Head of Service level;
    - ii. take disciplinary action against staff up to but excluding appeals against dismissal;
    - iii. apply conditions of service in accordance with the Council's policies;
    - iv. permanently regrade posts up to and including Head of Service level with the approval of the Corporate Director of Resources.
    - v. make establishment changes up to and including Head of Service level;
    - vi. deal with applications for regrading up to and including final appeal, ensuring that the person hearing the final appeal has had no previous involvement in the matter.
  - (d) Deploy other resources within their control.

- (e) Within service budgets, accept tenders, place contracts and procure other resources within or outside the Council subject to compliance with the Council's Financial and Contract Procedure Rules.
  - (f) Terminate contractual and other commissioning arrangements.
  - (g) Serve, receive and act upon notices, give or refuse consents, issue determinations, apply for permissions, make orders, grant licences in the exercise of any discretionary power or in complying with any duty of the Council.
  - (h) Exercise virement within the financial limits contained in the Financial Procedure Rules.
  - (i) Provide services to other local authorities and organisations.
  - (j) Respond to consultations from Government departments and other public bodies.
  - (k) Request the Head of Legal and Democratic Services to enforce any by-laws relevant to their service area.
  - (l) Exercise the Council's rights in any company or other form of corporate body of which the Council is a shareholder or member, unless alternative arrangements are specified in the relevant body's articles of association, other governing instrument, any shareholders' agreement or any specified delegations in relation to particular bodies.
5. In exercising their delegated powers Chief Officers must act within the law, the Council's Constitution, its Financial and Contract Procedure Rules and other procedures and policies and within appropriate service budgets.
6. In exercising their delegated powers the Chief Officers will:
- (a) Follow the procedures and guidance set out in the Guidance on the Exercising and Recording of Delegated Powers issued by the Monitoring Officer.
  - (b) Consult the relevant Cabinet Portfolio Member as appropriate.
  - (c) Consult any appropriate Chief Officer or relevant Head of Service, in particular where there are significant financial, legal, property or HR implications of the proposed action or decision.
  - (d) Make the record available to:
    - i. the public, provided this does not mean the release of confidential or exempt information;

- ii. any Member of the Council provided this does not involve the release of confidential or exempt information to which the Member is not entitled; and
  - iii. the Chief Executive and Head of Legal and Democratic Services.
7. Each Chief Officer shall act as the designated Proper Officer for the Local Government Act 1972:
  - (a) To identify which background papers disclose facts on which a particular report or an important part of the report is based (Section 100(d)(v)(a) of the Act).
  - (b) To prepare a list of background papers and to make arrangements for production of copies of background papers (Section 100(d)(i)(a) and (b) of the Act) (such delegation relates to the Chief Officer(s) in whose name(s) the report is prepared).
8. Chief Officers and Heads of Service may authorise officers to exercise powers delegated to them. Chief Officers and Heads of Service must maintain proper records of such authorisation. The Chief Officer or Head of Service shall remain accountable for any action or decisions taken under that authority.
9. For the avoidance of doubt, any authorisations made by Chief Officers to officers in force immediately prior to the adoption of this Constitution shall continue in force and any action taken thereunder shall remain valid unless and until it is superseded by either further such delegation or authorisation, or any action taken pursuant to later delegation.
10. In the event of a Chief Officer post being vacant, or in the absence of a Chief Officer, those delegated powers may be exercised by the relevant Heads of Service so far as permitted by law.
11. Where this Constitution permits the exercise of delegated powers by Heads of Service, such exercise is subject to the same restrictions and requirements as are applicable to Chief Officers.
12. Where it is impracticable to obtain authorisation from the Council body with responsibility for the function and subject to the action being reported (for information) to the next convenient meeting of that body, to take urgent action within legal powers where this is necessary in the interests of the Council, in respect of matters otherwise reserved to the Executive or some other Council body.

**The following matters are, in addition, delegated to all Heads of Service:**

13. Determining or resolving corporate complaints including the ability to make compensatory payments.

## Table 2 - Delegations to the Chief Executive

1. To act as Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989.
2. To guide and, where appropriate, direct chief officers in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.
3. (a) To carry out any executive function which is delegated to a particular chief officer in consultation with the relevant Cabinet Portfolio Member.  
  
(b) To carry out any executive function of a corporate nature in consultation where appropriate with the Leader and Deputy Leader.
4. To grant exemptions on the political restriction of officer posts under the Localism Act 2011.
5. To designate suitably qualified officers as Authorising Officers for the purpose of granting authorisations to exercise the powers made available to the Council by the Regulation of Investigatory Powers Act, 2000.
6. To act as Returning Officer for County Council Elections in accordance with Section 35 of the Representation of the People Act 1983 (the 1983 Act).
7. To act as Electoral Registration Officer for the County in accordance with Section 8 of the 1983 Act.
8. To approve officer severance payments of £20,000 and above, but below £100,000, in consultation with the Leader and the Portfolio Holder for Finance.
9. To discharge any function of the Executive in relation to communications.
10. To carry out any executive function in relation to Corporate Affairs, Policy, Planning, Performance and Communications.

### The following matters are delegated to the Head of Corporate Affairs:

11. To develop, implement and keep under review an effective internal and external communications strategy, which maintains the strong brand and reputation of the Council.
12. To lead on the development of the Council Plan.
13. To develop, implement and keep under review an effective performance management framework.



## Table 3 - Delegations to the Corporate Director for Regeneration, Economy and Growth

### Executive Functions

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

- Archives and Records
- Arts and Culture
- Assets, Estates and Property Management
- Attracting inward investment
- Building Control
- Business Durham
- Building Facilities and Management
- CCTV (Internal use)
- Care Connect and CCTV (public space cameras)
- Conservation
- Construction Programme and Project Management including: Programme and Project Management, Quantity Surveying and Accounts, Construction and Design Management (CDM)
- Culture Sport and Leisure
- Dangerous Structures
- Durham Key options (Housing)
- Economic Development
- Economic Regeneration
- Employability
- External Funding and Programmes
- Health and Safety (Internal)
- Housing Renewal and Improvement
- Housing Management, Strategy and Policy
- Integrated Passenger Transport Unit
- Local Transport Planning
- Libraries
- Management of commercial property portfolio
- Marketing
- Mineral and Waste Applications
- Museums
- Neighbourhood Planning
- Parking Policy, Control and Enforcement
- Planning Applications and Appeals
- Prevention & Resolution of Homelessness
- Project Design, Development and Delivery
- Promoting enterprise
- Regeneration Policy and Programmes

- Selective Licensing (Housing)
- Strategic Spatial and Planning Policy
- Sport and Leisure Centres
- Tourism (Visit County Durham)
- Theatre and Performing Arts
- Strategic Transport and Traffic Management

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

### Specific and non-executive delegations

1. To review decisions made by the Head of Property and Land relating to the list of assets of community value.
2. In consultation with the Corporate Director of Resources as Section 151 Officer, the Cabinet Portfolio Holder for Resources, Investments and Assets and the Cabinet Portfolio Holder for Finance, to approve the acquisition of property up to the value of £500,000 where the property is to be used as a children's home only.

### The following matters are, in addition, delegated to the Head of Planning and Housing:

3. To exercise the Council's functions in relation to housing including:
  - (a) the determination of any applications for grant and/or housing assistance loans;
  - (b) the exercise of the Council's enforcement powers under the legislation relating to private sector housing;
  - (c) to investigate and determine all applications made to the Council under its powers and duties to deal with homelessness;
  - (d) to authorise any expenditure required in the exercise of the Council's functions to assist the homeless.
4. To carry out the Council's functions in relation to permanent Gypsy, Roma and Traveller sites, including allocation of sites, site management, rent recovery and tenant support.
5. To determine all forms of planning and other applications and all notifications submitted under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous

Substances) Act 1990 or under any related principal or secondary legislation, except the following:

- (a) those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days that any Member of the Council requests be determined by the Planning Committee (such must be made in writing to the Head of Planning and Housing specifying material planning grounds on which the request is made and received by the Head of Planning and Housing within 21 days of publication on the weekly list or the initial publication of the proposal (site notice / press notice / service of neighbour consultation letters, whichever is the latest);
- (b) those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days where a Member of the Council or an officer of the Planning Development Service or their spouse/partner or children has an interest in the property or land which is the subject of the application or notification and where there is an objection to the application or notification;
- (c) those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days where, despite a Town or Parish Council having expressed objection or support, the officer is minded to recommend the application or notification on material planning grounds contrary to the wishes of the local council and:
  - i) the local council have made a specific request in writing for the application or notification to go before a planning committee; and
  - ii) the local council have confirmed their intention to attend the planning committee to make representations on the application; and
  - iii) the written request is received by the Head of Planning and Housing within 21 days of publication on the weekly list or the initial publication of the proposal (site notice / press notice / service of neighbour consultation letters, whichever is the latest).
- (d) Major developments (excluding section 73 Reserved Matter applications and Review of Mineral Planning Permissions) comprising:
  - i) major residential developments (10 or more dwellings or a site area of 0.5ha or greater) except where the application is for a substitution of house types on a scheme already benefitting from an extant planning permission;
  - ii) development of more than 20,000m<sup>2</sup> of floor space or a site area of 4ha or greater comprised in Use Class B1 (Business) and/or Use

Class B2 (General Industrial) and/or Use Class B8 (Storage or Distribution) or waste and waste related development; or

- iii) development not falling within (i) and (ii) above, where the floor space is 1000m<sup>2</sup> (gross) or more or the site area is 1 hectare or more except applications where the use or building would be for agriculture or personal equestrian use;
  - (e) those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days likely to have, in the opinion of the Head of Planning and Housing, a significant impact on the environment or are by their nature particularly controversial;
  - (f) those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days recommended for refusal which involve the creation of 10 or more full time or equivalent jobs;
  - (g) those applications for planning permission or notifications which have a relevant timescale of more than 35 days where there is a significant departure from Development Plan policy and which would be required to be the subject of a notification to the Secretary of State.
6. The exercise of the Council's enforcement powers under legislation in relation to Common Land and Town and Village Greens.
  7. To decline to determine planning applications under Sections 70A, 70B and 70C of the Town and Country Planning Act.
  8. To finally dispose of planning applications pursuant to Article 40(13)(a) of the Town and Country Planning (Development Management Procedure) (England) Order 2015
  9. To take all necessary steps in connection with the defence of appeals against any refusal or failure to determine any of the applications and notifications mentioned at paragraph 5 above.
  10. To provide pre-application advice on proposed or anticipated development schemes in accordance with the Council's Pre-Application Advice Protocol.
  11. To respond to any pre-application or other consultation on nationally significant infrastructure projects submitted or to be submitted to the Major Infrastructure Planning Unit under the Planning Act 2008.
  12. To carry out reviews of planning permissions as required by the Habitats Directive and the Conservation of Habitats and Species Regulations 2017.

13. To authorise the making and confirmation of a Direction under Article 4 of the Town and Country Planning (General Permitted Development) England Order 2015.
14. To authorise the making of proposals to the Secretary of State under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations.
15. In consultation with the Cabinet Portfolio Holder for Economic Regeneration and the member/s for the Electoral Division/s affected to determine applications for funding of schemes from monies held by the Council under planning obligations.
16. To authorise the drafting, negotiation and completion of Section 106 Planning Obligations, S106A Variations to Planning Obligations and Release of Section 52 Planning Agreements and Section 39 Agreements and to authorise the giving of any approval or consent required pursuant to a S106 Planning Obligation, S106A Deed of Variation or Section 52 Planning Agreement, or Section 39 Agreements.
17. Authorise, sign and serve all enforcement and other notices under the Town and Country Planning Act 1990, The Planning (Listed Buildings and Conservation Areas) Act 1990 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 on behalf of the Council.
18. Authorise the taking of prosecution action applications for injunctions and to instruct the Head of Legal and Democratic Services, as necessary, to instigate legal proceedings in respect of the enforcement of legislation relating to town and country planning and conservation.
19. To administer simple and conditional cautions in accordance with PACE and Home Office guidance to persons guilty of criminal offences under legislation relating to town and country planning and conservation.
20. Authorise the taking of default action under Sections 178 and 219 of the Town and Country Planning Act 1990.
21. Authorise the making of Orders under Section 257 of the Town and Country Planning Act 1990.
22. To authorise applications to the Secretary of State for an order under Sections 247 and 249 of the Town and Country Planning Act 1990.
23. To exercise powers of revocation/modification of planning permissions (Section 97), discontinuance of a use/alteration or removal of a building (Section 102 and Schedule 9) and the making of Prohibition or Suspension Orders (Schedule 9) of the Town and Country Planning Act 1990.

24. Authorise the making, confirmation, revocation and variations of Tree Preservations Orders and to determine applications for consent under such Orders.

24-25. To designate any areas to be of special architectural or historical interest as conservation areas; to review and amend the boundaries and conclude Character appraisals and to formulate and prepare proposals for the preservation and enhancement of those areas.

25-26. To authorise the taking of all necessary steps in connection with Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Order.

26-27. Providing advice or assistance to Parish Council, Neighbourhood Forum or community organisation that is producing a Neighbourhood Plan or Order as required by para 3 of Schedule 4b to the Town and Country Planning Act 1990 (as amended).

27-28. In connection with any proposed development under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, determine whether an Environmental Impact Assessment is required (screening) and the information required (scoping).

28-29. Authorise individual named officers to exercise powers of entry contained in the following:

- The Hedgerow Regulations 1997
- Town and Country Planning Act 1990
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- Building Act 1984
- Fire Safety and Safety of Places of Sport Act 1987
- Safety of Sport Grounds Act 1975
- Local Government (Miscellaneous Provisions) Act 1982
- Party Wall etc Act 1996
- Planning Act 2008

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

29-30. To administer and determine complaints about high hedges and to take default action as necessary under the Anti-Social Behaviour Act 2003.

30-31. The obtaining of information under Section 330 of the Town and Country Planning Act 1990.

31-32. To exercise the Council's powers to take temporary possession of land pursuant to the Neighbourhood Planning Act 2017.

~~32-33.~~ Act under and in respect of:

- (a) Sections 16, 19 to 21, 23 to 25, 32, 35 and 36, Building Act 1984;
- (b) Sections 77 to 78 and 80 to 83, Building Act 1984;
- (c) Building Regulation 18 with regard to giving of notices and requiring the laying open, cutting into, and pulling down the building, works or fittings (Building Regulations 2010),
- (d) Party Wall Act etc.1996.

~~33-34.~~ To respond to government and other consultations on Planning, Housing, Transport and Economic Policy.

~~34-35.~~ Accept and reject notices, certificates and certificates of compliance from Approved Inspectors and Public Bodies under Sections 47 to 54, Building Act 1984 and to issue safety certificates in accordance with the Safety of Sports Grounds Act 1975 and Part III, Fire Safety and Safety of Places of Sport Act 1987.

~~35-36.~~ To authorise, sign and serve all notices and deal with all applications, licences, revocations and suspensions and take all necessary enforcement action on behalf of the Council in respect of its responsibilities for matters of building control.

~~36-37.~~ The management of ~~all~~ matters required to ensure the Council carries out its statutory duties as a local housing authority as prescribed in:

- Housing Act 1985
- Housing Act 1996
- Housing Act 2004
- Local Government and Housing Act 1989
- Localism Act 2011
- The Regulatory Framework set out by the Regulator for Social Housing and
- Any other relevant statute or government guidance relating to the management and provision of social housing and related facilities.

~~37-38.~~ In conjunction with the Head of Corporate Finance and Commercial Services maintain a Housing Revenue Account in accordance with sections 74 – 78 of the Local Government and Housing Act 1989.

~~38-39.~~ To exercise the Council's functions in respect of the preparation and development of appropriate strategies and plans for the Council's housing stock, including the Housing Investment Programme and Cyclical Maintenance

Programmes including the construction, repair, maintenance, modernisation and redevelopment and renewal of properties including (but not limited to) house condition surveys and the preparation and implementation of programmes of repair and improvement.

~~39.40.~~ To prepare and keep under review from time to time the Council's Tenancy Strategy in line with the requirements of the Localism Act 2011.

~~40.41.~~ In consultation with the Head of Corporate Finance and Commercial Services to take any decisions on the selection of property where it is appropriate to charge an affordable rent in line with the Regulator for Social Housing's Rent Standard.

~~41.42.~~ Exercising the management of functions of the Council in relation to dwellings owned by the Council but not held under Part IV of the Housing Act 1985.

~~42.43.~~ Without prejudice to the foregoing delegations, to exercise the following functions of the Council:

- (a) authorising the allocation and granting of tenancies and licenses in accordance with the Council's allocation scheme;
- (b) approving rents in specific cases;
- (c) serving and enforcing notices, to quit, of termination or seeking possession;
  - i) maintaining properties and estates;
  - ii) The management of empty properties;
- (d) granting consent or otherwise to the succession or assignment of a tenancy where statute allows and in line with the Council's policy;
- (e) granting consent to mutual exchanges, imposing conditions to that consent where appropriate or refusing such consent with reference to Schedule 3 of the Housing Act 1985
- (f) granting consent, imposing conditions to that consent where appropriate or otherwise withholding tenants' requests to carry out improvements or alterations in accordance with the Housing Act 1985 sections 97-99
- (g) granting consent or otherwise in any other matter where the Council's tenancy agreement including introductory tenancy agreement or licensees requires that permission is sought by the tenant or licensee;
- (h) authorising compensation for tenants' improvements be they statutory or discretionary (Housing Act 1985 sections 99a and 100);



- (i) settling any claims by tenants for disrepair,
- (j) taking action under sections 1 and 115 of the Crime and Disorder Act 1998, Part V of the Housing Act 1996, Anti-Social Behaviour Act 2003 and Housing Act 2004;
- (k) taking action to secure the eviction of trespassers;
- (l) undertaking consultation with tenants and / or social landlords where required by statute or government guidance or where otherwise appropriate e.g. section 105 of the Housing Act 1985; and
- (m) authorise the granting of licenses for the use of garages, reviewing license conditions and subsequent termination of licenses where necessary.
- (n) Carry out the Council's statutory responsibilities under Part V of the Housing Act 1985 (Right to Buy).

43.44. Authorising service of statutory notices, admitting / denying the right to buy, withdrawing or requiring completion.

44.45. Authorising sales of freehold or otherwise granting of long leases

45.46. In consultation with the Head of Legal and Democratic Services, enforcing covenants including those relating to repayment of discount, use of shared areas and letting of whole.

46.47. In consultation with the Head of Legal and Democratic Services

- (a) Agreeing variations to the terms of individual leases.
- (b) Granting/refusing permission to requests on various matters, by leaseholders, where the lease requires consent of the landlord.
- (c) Authorising legal action for breaches of covenants.

47.48. Determining the application of covenants applied in relation to the Right to Buy under section 157 of the Housing Act 1985 relating to homes in areas covered by National Parks, Area of Outstanding Natural Beauty and Designated Rural Areas relating to:

- (a) Restriction of onward sales to people who have lived or worked in the area for a period of 3 years, or
- (b) Exercising the Council's first right of refusal to repurchase the property within first 10 years following the RTB sale.

- 48-49. Exercising the functions of the Council under Part X of the Housing Act 1985 and Part IV, Chapter 3, and Part VII of the Housing Act 2004 in relation to overcrowding.
- 49-50. Exercising the functions of the Council under the Protection from Eviction Act 1977, the Protection from Harassment Act 1997 and all other enabling powers to regulate and control private landlords.
- 50-51. Exercising the functions of the Council under the Landlord and Tenant Act 1985 (landlord's obligations).
- 51-52. In consultation with the Head of Corporate Finance and Commercial Services, write off irrecoverable debt due from current and former tenants in compliance with the Council's write off policy.
- 52-53. In consultation with the Head of Corporate Finance and Commercial Services, write off any un-refundable Credit balances associated with untraceable former tenants in compliance with the Council's write off policy.
- 53-54. To determine disturbance payments and applications for home loss payments in accordance with the Land Compensation Act 1973.
- 54-55. Undertaking and determining reviews under the Introductory Tenants (Review) Regulations 1997.
- 55-56. To make decisions under Access to Personal Files (Housing) Regulations 1989.
- 56-57. To authorise payments to tenants for decoration and removal expenses or approve ex-gratia payments in appropriate circumstances.
- 57-58. Agreeing terms with private landlords and registered social landlords to lease accommodation for the purposes of providing temporary housing for homeless households.
- 58-59. To consider and determine any matters relating to the Housing Act 1985 (as amended in respect of Right to Buy including the repayment of discount and right of first refusal).
- 59-60. To ensure compliance with all Council policies relating to the provision and management of Council owned residential properties. Council to make changes to all such policies where provision of service would be improved, or necessity arises or to recommend such changes to Cabinet where appropriate.
- 60-61. To establish such arrangements as appropriate to ensure effective engagement of tenants and leaseholders in the setting, monitoring and review of housing and related services including holding meetings, organising consultation events, surveys, and newsletters.

~~61.62.~~ To consider and respond to requests from Durham Police in respect of the designation of dispersal areas under the provisions of the Anti- Social Behaviour Crime and Policing Act 2014.

~~62.63.~~ Provision and operation of closed-circuit television in accordance with the Criminal Justice and Public Order Act 1994 and the Private Security Industry Act 2001.

**The following matters are, in addition, delegated to the Head of Corporate Property and Land:**

~~63.64.~~ In consultation with the Local Members and the relevant Cabinet Portfolio Member, to sell or lease any property which is surplus to the requirements of the Service for which it is held and where after enquiries no other Service has expressed an interest in the property.

~~64.65.~~ To approve the principle of acquiring property at a price not exceeding £250,000.

~~65.66.~~ To settle the terms of the purchase or lease of property the acquisition of which has been approved in principle by the Council and to settle any dilapidation claim at the end of any lease acquired.

~~66.67.~~ To negotiate the acquisition of easements, rights of way, wayleaves, licences, covenants and consents for the benefit of Council land and property at a value not exceeding £250,000.

~~67.68.~~ To accept the dedication or transfer of land to be maintained as public open space subject to satisfactory terms being negotiated for contribution to the cost of maintenance.

~~68.69.~~ To deal with applications for easements, rights of way, wayleaves, licences, covenants and consents affecting council land and property not materially affecting the use to which it is or might be put.

~~69.70.~~ To approve the granting of an option over Council land or the acquiring by the Council of an option over land and to approve the extension of any option granted or acquired.

~~70.71.~~ To authorise the use of Council land as a permissive right of way and/or to dedicate Council land as a public right of way.

~~71.72.~~ In consultation with the appropriate Service representative to grant leases on any council owned property, whether or not it has been declared surplus.

- ~~72.73.~~ In respect of leases, to carry out rent reviews and to grant renewals, variations, assignments, sub-lettings, surrenders and other landlords' consents.
- ~~73.74.~~ To agree the appropriation of land from one use to another where this is necessary to facilitate schemes to be carried out by or on behalf of the Council.
- ~~74.75.~~ To settle compensation claims not exceeding £50,000 either under the provisions of Part 1 of the Land Compensation Act 1973 or as a result of the Council taking entry to property for borehole samples, surveys or other site investigations.
- ~~75.76.~~ To negotiate and agree the rating assessment and valuation of all council owned property, in consultation with the Head of Corporate Finance and Commercial Services.
- ~~76.77.~~ To require information as to interests in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- ~~77.78.~~ To negotiate abortive costs in the event of a transaction not proceeding in circumstances where the Council has a liability to pay costs.
- ~~78.79.~~ Where required as part of the appropriate management of the Council's assets, to authorise the demolition of Council buildings.
- ~~79.80.~~ To approve disposals and appropriations of Open Space and Public Walks and Pleasure Grounds as set out in Section 10 of the Open Spaces Act 1906 and Section 164 of the Public Health Act 1875 subject to seeking guidance from the Highways Committee in the event of unresolved objections being received.
- ~~80.81.~~ To authorise and maintain a list of assets of community value and to make adjudications and decisions in relation thereto, as defined in Part 5, Chapter 3 of the Localism Act 2011.
- ~~81.82.~~ All duties arising out of the establishment of the Business Improvement Districts.
- ~~82.83.~~ To authorise land disposals at an undervalue in excess of £50,000. Disposals at an undervalue in excess of £2 million require Secretary of State approval.
- ~~83.84.~~ Serve, receive and act upon legal notices and apply for permissions, in the exercise of any discretionary power or in complying with any duty of the Council in relation to land and property.

**The following matters are, in addition, delegated to the Head of Transport and Contract Services:**

~~84-85.~~ To cancel penalty charge notices in respect of parking contraventions under the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.

~~85-86.~~ To exercise the Council's powers under the Traffic Management Act 2004 and Transport Act 2000 to:

- (a) issue a penalty charge notice in connection with parking offences and part of the civil parking regime
- (b) allow exceptions to normal civil parking enforcement practices where appropriate

~~86-87.~~ To authorise the taking of prosecution action applications for blue badge misuse and abuse and to instruct the Head of Legal and Democratic Services, as necessary, to instigate legal proceedings in respect of the Council's powers of enforcement of legislation relating to highways and road traffic.

~~87-88.~~ To administer simple and conditional cautions in accordance with PACE and Home Office Guidance to persons guilty of criminal offences under legislation relating to highways and road traffic.

~~88-89.~~ To deal with the provision and maintenance of bus stop infrastructure in highways and, if necessary, land abutting highways.

~~89-90.~~ To undertake non-statutory consultations before implementing proposals to locate bus stop infrastructure, subject to consultation with Highways Committee before exercising this delegated power if there are unresolved representations to such proposals.

~~90.~~ To discharge the regulatory and enforcement functions of the Council under legislation relating to highways and road traffic.

~~91.~~ To enter into agreements under Sections 38, 219 and 220 of the Highways Act 1980 to adopt and there after maintain highways at the public expense.

~~92.~~ To enter into Section 278 of the Highways Act 1980 agreements to modify existing highways.

~~93-91.~~ To update and amend as necessary the list of streets maintained under Section 36(6) of the Highways Act 1980

**The following matters are, in addition, delegated to the Head of Culture, and Sport and Tourism:**

~~94-92.~~ To authorise suitably qualified and competent staff within Culture, and Sport and Tourism and other persons acting on behalf of the Council, for the

purposes of discharging duties and powers under all legislation relating to the Council's functions in respect of Culture, ~~and Sport~~ and Tourism.

~~95-93.~~ To exercise the Council's functions under all legislation relating to its role as Library Authority.

~~96-94.~~ In consultation with the Head of Legal and Democratic Services to take enforcement action under bye-laws relating to arts, libraries and museums.

~~97-95.~~ To approve agency agreements where financial transactions are not required.

## Table 4 - Delegations to the Corporate Director of Adult and Health Services

### Executive Functions

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

1. The exercise of the Council's powers and duties in relation to the provision of social services so far as those functions relate to:
  - (a) Adults;
  - (b) Carers;
  - (c) Prisoners and/or people in approved premises within County Durham who have social care needs;
  - (d) Functions exercisable on behalf of an NHS body so far as it relates to adults.
2. Implementing or determining, subject to any right of review or appeal which may apply, all matters concerning the provision of mental health services including applications to displace nearest relatives and appointment as nearest relative and the acceptance and exercise of guardianships under the Mental Health Act 1983.
3. To formally approve and authorise Mental Health Professionals who are eligible and qualified to be considered as Approved Mental Health Practitioners.
4. Implementing or determining, subject to any right of review or appeal which may apply, all matters concerning the provision of services provided under the Mental Capacity Act 2005 including appointment as Deputy and applications to the Court of Protection and undertaking Deprivation of Liberty Safeguard authorisations (DoLS).
5. Implementing or determining, subject to any right of review or appeal which may apply, all matters concerning the statutory and AHS corporate complaints procedure.
6. Establishing and amending a charging policy for Adults Social Care.
7. Setting and varying rates for providers of all forms of social care and housing support in consultation with the Corporate Director of Resources.
8. Setting and varying fees and charges for delivery of services.
9. Ensure our duty to co-operate is undertaken alongside our health partners and other agencies in the planning, commissioning, and assessing risk posed by

violent or sexual offenders led by the probation service, the prison service, and police.

10. Protection and promotion of the welfare and wellbeing of adults who have social care needs, including young people who have social care needs and who are moving into adulthood.
11. To meet the requirements as set down by regulatory bodies in relation to the operation of services within Adult and Health Services.
12. The provision, operation, commissioning, and variation of payments to external providers in respect of services arranged by the Corporate Director of Adult and Health Services.
13. Under the Care Act 2014 to discharge any functions in relation to the social care duties of the Council including:
  - (a) To provide information and advice about care and support services for adults and carers.
  - (b) To provide or arrange access to preventative services promoting wellbeing and independence.
  - (c) Ensuring that the needs of people continue to be met if their care provider becomes unable to carry on providing care because of business failure.
  - (d) Carrying out an assessment and applying national eligibility criteria for anyone who appears to require care and support, including carers who may need support.
  - (e) Work together with the NHS to ensure the safe hospital discharge of people with care and support needs.
  - (f) To provide a personal budget to anyone with 'eligible needs'.
  - (g) To provide access to advocacy for anyone who would have 'substantial difficulty' in being involved in making decisions about their care and support and have no appropriate individual (carer, family, or friend) to advocate for them.
  - (h) To have in place a Safeguarding Adults Board with a duty to assure itself that partners are working together to safeguard adults from abuse and neglect or the risk of abuse and neglect, and to support communities to prevent abuse and neglect.
  - (i) To make enquiries into specific concerns of abuse and neglect requiring the cooperation of partner agencies and led multi agency safeguarding investigations.

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



## Specific Delegations

14. To coordinate the Council's response to Section 17 of the Crime and Disorder Act 1998 and ensure the crime and disorder implications of the Council's decisions are properly considered.
15. To meet the requirements as set down by regulatory bodies in relation to the employment, registration, and training of all registrable staff.
16. To advise and contribute to the preparation of the Integrated Needs Assessment and Joint Health & Wellbeing Strategy in conjunction with the Director of Public Health and the North East and North Cumbria Integrated Care Board.
17. To be the lead Director on the local Safeguarding Adults Board in accordance with legislation and guidance.
18. To work in collaboration with partners in the development of the Safe Durham Partnership Strategic Assessment on behalf of the Safe Durham Partnership.
19. In conjunction with the Corporate Director of Resources sign off the Better Care Fund.
20. To take responsibility for the management of Adult Social Care functions in the context of the Integrated Community Services model.
21. To exercise the Council's duties and responsibilities in respect of market shaping and commissioning adult care and support as outlined in the Care Act 2014.

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

## Table 5 - Delegations to the Director of Public Health

### Specific Delegations

1. Under Section 73A(1) of the National Health Service Act 2006 inserted by section 30 of the Health and Social Care Act 2012;
  - (a) To contribute to and influence the work of the NHS Commissioners, ensuring a whole system approach across the public sector and ensuring NHS commissioners receive the public health advice they need;
  - (b) To undertake duties to take steps to improve public health;
  - (c) To undertake such other public health protection or health improvement functions that the Secretary of State delegates to Local Authorities either by arrangement or under regulations- these include services mandated by regulations under Section 6C of the 2006 Act Inserted by section 18 of the 2012 Act;
  - (d) To respond as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications;
  - (e) To promote Healthy Start Vitamins (under the Healthy Start and Welfare Food Regulations 2005) for maternity or child health clinics;
  - (f) To consult and make decisions on Fluoridation Schemes;
  - (g) The commissioning of services in relation to 0-5 children's public health.
2. To take responsibility for the management of the Council's Public Health Services and function, with professional responsibility and accountability for their effectiveness, availability, and value for money.
3. To provide leadership, expertise and advice to Senior Officers and Elected Members on a range of issues from outbreaks of disease and emergency preparedness through to improving local people's health concerns and around access to health services.
4. To provide the public with expert, objective advice on health matters.
5. To promote action across the life course, working together with council colleagues such as the Corporate Director of Adults and Health Services and with NHS colleagues.
6. To work with local Criminal Justice Partners and Police and Crime Commissioners to promote safer communities, including cooperating with the police, the probation service, and the prison service to assess the risk posed by violent or sexual offenders.
7. Under the National Health Service Act 2006 and the Health and Social Care Act 2012, to discharge any functions in relation to the corporate public health duties of the Council including responsibility for writing the

annual report on the health of the local population. (The Council has a duty to Publish this report under section 73B (5) & (6) of the 2006 Act and Section 31 of the 2012 Act).

8. Under section 6C of the National Health Service Act 2006;
  - (a) To ensure appropriate access to sexual health services;
  - (b) To take responsibility for the National Child Measurement Programme;
  - (c) To take responsibility for the NHS Health Check Assessment;
  - (d) Support to NHS Commissioners.
9. To input into the Local Health Resilience Partnership (LHRP) for County Durham, Darlington, and Tees Valley.
10. To seek assurance of the NHS screening programmes, both cancer and non-cancer, ante-natal and children's screening programmes, ensuring the health of the population is adequately protected and raising issues and concerns appropriately.
11. To seek assurance of the NHS immunisation programmes including children 0-5 years, HPV and seasonal flu and any other that the Secretary of State instructs, including catch up programmes, raising issues and concerns appropriately.
- ~~12. To discharge the Council's responsibilities in relation to communicable and infectious diseases, including healthcare acquired infections.~~
- ~~13.~~12. Implementing or determining, subject to any rights of review or appeal which may apply, all matters concerning the Statutory Public Health complaints procedure.
- ~~14.~~13. Setting, varying, and recovering charges in respect of certain steps taken in the exercise of health improvement duties.
- ~~15.~~14. To advise and contribute to the preparation of the Pharmaceutical Needs Assessment.

## Table 6 - Delegations to the Corporate Director of Children and Young People's Services

### Executive Functions

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

#### General

1. To be the Council's appointed Director(s) of Children's Services in accordance with section 18(1) of the Children Act 2004, with responsibility for the discharge of the local authority's education and children's social services functions as set out in section 18(2) of that Act.
  2. To act as the statutory officer under section 18(1) of the Children Act 2004 and provide arrangements for the safeguarding of vulnerable children and for promoting the wellbeing of children and families.
  3. To meet the requirements as set down by regulatory and inspection bodies in relation to the operation of children and young people's services.
  4. To set and vary fees and charges for delivery of children and young people's services.
  5. To undertake joint collaborative action as appropriate with the National Health Service and other partner organisations for the planning and provision of jointly operated services within the County for children and young people.
  6. To discharge relevant statutory duties and powers related to mental health services for children and young people in accordance with the Mental Health Act 1983.
- 4.—
- 1.— ~~The exercise of the Council's powers and duties in relation to the provision of social services so far as those functions relate to:-~~
    - (a) ~~Children, or~~
    - (b) ~~Children and young people leaving care~~

- ~~3. Issuing and conducting proceedings, including care proceedings and applications for placement orders in accordance with the Children Act 1989 and the Adoption and Children Act 2002 and all other relevant legislation and guidance.~~
- ~~4. Functions exercisable on behalf of an NHS body so far as it relates to children and young people.~~
- ~~5. To manage the Council's function as Local Education Authority, in accordance with strategic plans approved by the Council and governing legislation.~~
- ~~6. The Council's powers and duties in relation to the provision and commissioning of education and training opportunities for young people as determined by the Education Act 1996 and Education and Skills Act 2008 and all other legislation and guidance relating to education and training for young people.~~
- ~~7. The effective and lawful operation of a secure unit in accordance with the licence requirements set by the Office for Standards in Education, Children's Services and Skills (Ofsted).~~
- ~~8. To discharge all statutory duties and powers related to mental health services for children and young people in accordance with the Mental Health Act 1983.~~
7. To implementing or determining, subject to any right of review or appeal which may apply, all matters concerning the statutory and corporate complaints procedure relating to children and young people.
8. To exercise relevant functions on behalf of an NHS body so far as it relates to children and young people.
9. To commission and agree payments to external providers in respect of services arranged by the Corporate Director of Children and Young People's Services.
10. In conjunction with the Corporate Director for Adults and Health Services, to coordinate the provision of services to children and young people who are transitioning into adulthood.
11. In conjunction with the Director of Public Health, to improve the health of children in the local area.
- 2.12. To fulfil the Council's duty to cooperate with Multi Agency Public Protection Arrangements (MAPPA).

### Children's Social Care

13. The exercise of the Council's powers and duties in relation to the provision of social services so far as those functions relate to:

(a) Children; or

(b) Children and young people leaving care

~~3. To issue and conduct proceedings, including care proceedings and applications for placement orders in accordance with the Children Act 1989 and the Adoption and Children Act 2002 and all other relevant legislation and guidance.~~

14. To approve foster parents

15. To establish and maintain an adoption service in accordance with the Adoption Acts, which may include the establishment and maintenance of a Regional Adoption Agency.

16. To discharge the Council's responsibility in relation to the Sufficiency Duty and ensuring that there is sufficient suitable homes and accommodation for children in care.

17. To make arrangements for the provision of Local Authority Children's homes and their management and to ensure that they are registered as children's homes.

18. To discharge section 13 of the Children Act 2004 which requires local authorities and other named statutory partners to make arrangements to ensure that their functions are discharged with a view to safeguarding and promoting the welfare of children. This includes planning to prevent children from going missing and to protect them when they do.

## **Education and Skills**

19. To manage the Council's function as Local Education Authority, in accordance with strategic plans approved by the Council and governing legislation.

20. To exercise the Council's powers and duties in relation to the provision and commissioning of education and training opportunities for young people as determined by the Education Act 1996 and Education and Skills Act 2008 and all other legislation and guidance relating to education and training for young people.

21. To provide, operate and commission vocational training and allied services for persons over compulsory school age, including the provision of secure boarding accommodation for young people aged over 16 but under 25 who are subject to a learning difficulty assessment and promotion of arrangements to assist persons to obtain employment and employers to obtain employees.

22. To discharge the statutory duty under s22(3A) of the Children Act 1989 to promote the educational achievement of children in care, including those children placed out of authority, and to appoint an officer to make sure that its duty to promote the educational achievement of its children in care is properly discharged.
23. To make free-of-charge home to school travel arrangements to facilitate the attendance at school of eligible children resident in the area.
24. To deliver duties identified in section 2 of the Childcare Act 2016 and sections 6, 7, 7A, 9A, 12 and 13 of the Childcare Act 2006, including the requirement to secure sufficient childcare for working parents, to provide information, advice and assistance to parents and prospective parents and to secure the equivalent of 30 hours of free childcare over 38 weeks of the year for qualifying children.
25. To make arrangements for suitable education for permanently excluded pupils, and for other pupils who, because of illness or other reasons, would not receive suitable education without such arrangements being made.
26. To discharge functions relating to school admissions and ensure that admission arrangements are compliant with the School Admissions Code.
27. To discharge responsibilities under the Education Act 1996 to secure school places.

### **Early Help, Inclusion and Vulnerable Children**

28. To ensure the effective and lawful operation of a secure unit in accordance with the licence requirements set by the Office for Standards in Education, Children's Services and Skills (OFSTED).
29. To discharge the Council's powers and duties in the Children and Families Act 2014 in relation to children and young people with Special Educational Needs and Disabilities, including the publication of a 'Local Offer' which sets out services available for children and young and people with special educational needs between the ages of 0-25.
30. To discharge the Council's responsibilities under section 39(1) of the Crime and Disorder Act 1998 which requires the cooperation of the named statutory partners to form a Youth Justice Service.

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

- ~~9. Setting and varying rates for providers of all forms of social care and housing support in consultation with the Corporate Director of Resources.~~
- ~~10. Setting and varying fees and charges for delivery of services.~~
- ~~11. Undertaking joint collaborative action as appropriate with the National Health Service and other partner organisations for the planning and provision of jointly operated services within the County for children and young people.~~
- ~~12. To meet the requirements as set down by regulatory bodies in relation to the operation of services within Children and Young People's Services.~~
- ~~13. To discharge the Council's responsibilities under Section 39(1) of the Crime and Disorder Act 1998 which requires the co-operation of the named statutory partners to form a Youth Justice Service.~~
- ~~14. The provision, operation, commissioning and variation of payments to external providers in respect of services arranged by the Corporate Director of Children and Young People's Services.~~
- ~~15. The provision, operation and commissioning of vocational training and allied services for persons over compulsory school age, including the provision of secure boarding accommodation for young people aged over 16 but under 25 who are subject to a learning difficulty assessment and promotion of arrangements to assist persons to obtain employment and employers to obtain employees.~~
- ~~16. The provision, operation and commissioning of services in relation to Adult Learning.~~
- ~~17. To coordinate the transition of service provision for children who will require services into adulthood.~~
- ~~18. Under the Children and Families Act 2014, to discharge any functions in relation to the social care duties of the Council including:~~
- ~~19. To discharge the Council's powers and duties in the Children and Families Act 2014 in relation to children and young people with Special Educational Needs and Disabilities, including the publication of a 'Local Offer' which sets out services available for children and young people with special educational needs between the ages of 0-25.~~
- ~~20. To approve foster parents and to establish and maintain an adoption service in accordance with the Adoption Acts.~~

~~In carrying out these delegated functions, the Corporate Director will agree arrangements for consultation with the relevant Cabinet Portfolio Member(s) and will~~



~~refer to the Executive for consideration and decision those matters directed by the said Member(s).~~

## Specific Delegations

~~21.31.~~ \_\_\_ To meet the requirements as set down by regulatory bodies in relation to the employment, registration and training of all registrable staff.

~~22.32.~~ \_\_\_ To license the employment of children in accordance with the Children and Young Persons Act 1933.

~~23.33.~~ \_\_\_ To be the lead Director on the Local Safeguarding Children's Partnership in accordance with legislation and guidance.

## Table 7 - Delegations to the Corporate Director of Neighbourhoods and Climate Change

### Executive Functions

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

- Allotments
- Anti-Social Behaviour
- Bereavement services
- Civic Pride
- Clean and Green including: Street Cleansing, Public Realm/ Open Space
- Community Buildings
- Community Development and Area Action Partnerships
- Community Engagement
- Support for statutory partnerships including community safety (incorporating the responsibilities under the Counter Terrorism and Security Act 2015 – the Prevent function), health and wellbeing, children and adults safeguarding.
- Safer Communities including Local Multi Agency Problem Solving groups (LMAPS).
- Conservation, Archaeology and Ecology
- Consumer Protection including Fair Trading, Safety and Metrology, Licensing and Markets
- County Fleet
- Emergency Planning and Civil Contingencies
- Environment Policy
- Government Migration Programmes
- Gypsy, Roma, Traveller Services
- Highway Services including: Highway Design, Construction and Maintenance, Winter Maintenance
- Maintenance, Parks and Grounds
- Neighbourhood Interventions
- Neighbourhood wardens
- Operational community safety
- Parks and Countryside
- Partnership Co-ordination and support for the County Durham Partnership
- Pest Control
- Private Sector Housing regulation
- Public Health Protection and infectious disease outbreak control
- Public Rights of Way
- Refuse and Recycling including Waste Transfer Stations

- [Special Criminal Investigations including tobacco control](#)
- Strategic Highways including: Drainage and Coastal Protection, Network Management, Client, Policy and Asset Management, Road Safety
- Strategic Waste including Waste Contract and Management Strategy
- Sustainability & Climate Change
- Voluntary Sector and Local Councils

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

### Specific and non-executive delegations

2.1. To review decisions made by the Head of Corporate Property and Land relating to the list of assets of community value.

### The following matters are, in addition, delegated to the Head of Environment:

3.2. To authorise suitably qualified and competent staff within Environmental Services and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under all legislation related to the Executive functions in paragraph 1 of Table 7.

4.3. To authorise suitably qualified and competent staff within Environmental Services to discharge the regulatory and enforcement functions of the Council related to the Executive functions in paragraph 1 of Table 7.

5.4. To exercise, in consultation with the Head of the Legal and Democratic Services the Council's enforcement functions including [where appropriate](#), the institution of legal proceedings under all legislation related to the Executive functions in paragraph 1 of Table 7.

6.5. To issue simple and conditional cautions in accordance with PACE and the Home Office Guidance to persons guilty of criminal offences under legislation relating to Executive functions in paragraph 1 of Table 7.

7.6. To exercise functions as Waste Collection and Disposal Authority under all legislation relating to Waste Management.

8.7. In consultation with the Head of Legal and Democratic Services, to make, confirm, amend, vary, modify, consolidate and revoke orders under the legislation relating to Executive functions listed in Paragraph 1 of Table 7.

9.8. To manage the Council's allotments which includes responsibility for the grant, renewal and termination of allotment tenancies.

~~10. To designate any areas to be of special architectural or historical interest as conservation areas; to review and amend the boundaries and conclude Character appraisals and to formulate and prepare proposals for the preservation and enhancement of these areas.~~

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

~~11.9.~~ Generally to take action and operate all legislative, enforcement and administrative procedures in relation to the Council's functions and duties as a highway authority and street authority. Specifically but not exclusively to:

- (a) maintain a register of adopted streets, enter into agreements for adopting highways and adopt private streets by notice;
- (b) take any necessary action in connection with the Advance Payments Code and to make highway funding agreements;
- (c) determine applications for licences, permits and consents in connection with vehicle crossings, builders skips, use of traffic signs, placing/licensing amenities in the highway, erection of emergency barriers, scaffolding, hoardings and the deposition of building materials on the public highway, excavations and openings in the highway, vaults and cellars, street works and permits ~~for heavy trailers~~;
- (d) exercise the Council's common law powers to remove obstructions and abate nuisances on the highway;
- (e) take action to protect highways rights and deal with obstructions;
- (f) direct unauthorised campers to leave highway land and to apply for court order to remove vehicles off the highway;
- (g) to make temporary road closure orders/notices, orders closing streets for processions etc and exercise the Council's powers;
- (h) enforce all the provisions of and initiate legal proceedings under all the sections of the Highway Act 1980;
- (i) to exercise the Council's powers under the Durham City Council Act 1985 in relation to the temporary closure of footpaths;
- (j) to grant street works license under section 50 of the New Roads and Street Works Act 1991
- (k) to issue fixed penalty notices to statutory undertakers who fail to serve correct notices under the New Roads and Street Works Act 1991 to carry out works on the road network;

~~12.10.~~ To exercise all the Council's functions relating to provisions of the Highways Act 1980 as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) 2000 Regulations.

~~13.11.~~ To authorise suitably qualified and competent staff within Highway ~~Services~~ and other persons acting on behalf of the Council, for the purposes of

discharging duties and powers regulatory and enforcement functions under the legislation relevant to the role of Head of Highway ~~Services~~.

~~44.12.~~ To exercise, in consultation with the Head of the Legal and Democratic Services the Council's enforcement functions, including, where appropriate the institution of legal proceedings, under all legislation relevant to the role of Head of Highway ~~Services~~.

~~45.13.~~ In consultation with the Head of Legal and Democratic Services, to make, confirm, amend, vary, modify, consolidate and revoke orders under the legislation relevant to the role of Head of Highway ~~Services~~.

~~46.14.~~ To exercise the functions of land drainage and Lead Local Flood Authority.

~~15.~~ To exercise all of the Council's functions relating to public rights of way as set out in Part 1 of Section I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 except matters reserved to the Highways Committee.

~~17.~~

### **The following matters are, in addition, delegated to the Head of Partnerships and Community Engagement:**

~~48.16.~~ To authorise the expenditure of Neighbourhood and Area budgets approved by the Council in consultation with the relevant Area Action Partnership Board and the appropriate local Member(s).

~~49.17.~~ To support and co-ordinate partnership boards including and not limited to community safety/ crime and disorder; health and wellbeing; children, young people and families.

~~20.18.~~ To plan and deliver ~~the~~ requirements for welcoming and supporting refugees and individuals seeking asylum, including capacity within the County as part of the Government Migration Programme.

### **The following matters are, in addition, delegated to the Head of Community Protection:**

~~21.19.~~ To exercise all of the Council's functions including licensing, registration, making of orders, issue of notices and enforcement in respect of the following matters referred to in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000:

- (a) Performances of hypnotism;
- (b) Premises for acupuncture, tattooing, ear piercing and electrolysis;
- (c) Pleasure boats and pleasure vessels;

- (d) Night cafes and take-away food shops;
- (e) Sale of non-medicinal poisons;
- (f) Premises for the preparation of food including registration;
- (g) Scrap yards;
- (h) Pet shops and the breeding and boarding of dogs or other animals;
- (i) Animal trainers;
- (j) Knackers' yards;
- (k) Charitable collections;
- (l) Operation of loudspeakers;
- (m) Street works licences;
- (n) Movement and sale of cattle and pigs;
- (o) Storage of celluloid;
- (p) Meat, fish, dairy and egg product establishments and butchers' shops;
- (q) Motor salvage operations;
- (r) Health and safety at work;
- (s) Smoke-free premises and vehicles;
- (t) Caravan and camping sites and moveable dwellings

22-20. To exercise the Council's functions in relation to:

- (a) The control of pollution and the management of air quality;
- (b) Statutory nuisances, as referred to in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- (c) Contaminated land;
- (d) Port health.

23-21. To exercise, in consultation with the Head of the Legal and Democratic Services the Council's licensing, approval, registration and enforcement functions, including, where appropriate, the institution of legal proceedings under legislation relevant to the role of Head of Community Protection. This will include all forms of Licensing, Environmental Health, Statutory nuisance, Contaminated land, Food Safety, Consumer Protection, Trading Standards and Animal Welfare.

24-22. Subject to Appendices 1, 2 and 3 to this Table to authorise, suspend, vary, transfer, extend or revoke permits, licences, certificates, registrations and approvals issued under the legislation.

25-23. To issue simple and conditional cautions and in accordance with PACE and the Home Office Guidance to persons guilty of criminal offences under legislation falling within the role of Head of Community Protection.

26-24. To authorise suitably qualified and competent staff within the Environment, Health and Consumer Protection Division Community Protection Service and other persons acting on behalf of the Council, for the purposes of discharging duties and powers relating to the Executive Functions in paragraph 1 of Table 7 and under ~~the~~ legislation falling within the role of Head Community Protection.

~~27-25.~~ To authorise another local authority to institute legal proceedings in respect of alleged contraventions of legislation where related contraventions are being investigated by that authority.

~~28-26.~~ To grant authorisations in relation to illegal money lending and unfair trading practices.

~~29-27.~~ ~~Power to~~ agree transfers and assignments under health and safety legislation to change Enforcing Authority responsibilities.

~~30-28.~~ ~~Power to~~ To appoint Proper Officers and alternate Proper Officers for the Authority for matters relating to Public Health, Port Health and the Control of Infectious Disease.

~~29.~~ ~~Power to~~ To appoint Public Analyst, Agricultural Analyst and Food Examiner for the Council.

~~30.~~ The management of matters required to ensure the Council carries out its statutory duties as a local housing authority as prescribed in:

- Housing Act 1985
- Housing Act 1996
- Housing Act 2004
- Local Government and Housing Act 1989
- Localism Act 2011
- Any other relevant statute or government guidance relating to private sector housing.

~~31.~~ To exercise the Council's regulatory functions in relation to the regulation of private sector housing, including:

- a. To exercise the Council's enforcement powers under the legislation relating to private sector housing;
- b. Licensing of Houses in Multiple Occupation;
- c. To exercise the functions of the Council under Part X of the Housing Act 1985 and Part IV, Chapter 3, and Part VII of the Housing Act 2004 in relation to overcrowding.

~~31-32.~~ Act under and in respect of Sections 59-63, 76, 79 Building Act 1984.

~~32-33.~~ To authorise Officers to institute and or defend on behalf of the Council any legal proceedings which the Council by itself, or by a duly empowered Committee, may decide to take. In this respect, nominated staff are hereby authorised to appear in Court in person, or to be represented by a duly appointed officer of the Council in accordance with Section 223 of the Local Government Act 1972 or to be represented by a duly instructed solicitor.

~~33-34.~~ To determine those applications and matters in relation to Licensing and Gambling as are referred to in Appendices 1, 2 and 3 to this Table.

35. To agree terms of conditions and licences in accordance with published best practice and/or guidance.

~~34-36.~~ Determine suitability of a person to carry on business as a scrap metal dealer and to revoke existing licences and impose licence conditions in accordance with the Scrap Metal Dealers Act 2013, as appropriate.



## Appendix 1 to Table 7

## Delegation of Licensing Act 2003 responsibilities

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



## Appendix 2 to Table 7 Gambling Act 2005 Scheme of Delegations

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

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Section 202	Determination of action following review of Premises Licence	Licensing Sub-Committee
Section 204	Determination of application for provisional statement in respect of Premises Licence where representations have been made (and not withdrawn)	Licensing Sub-Committee
	Determination of application for provisional statement in respect of which no representations received	Officers
Section 205	Decision to disregard representations made in respect of application for a Premises Licence after issue of provisional statement	Officers in consultation with the Chair or Vice-Chair of the Licensing Committee
Section 218	Issue of counter notice to Temporary Use Notice where number of permitted days are exceeded	Officers
Section 221	Objection to Temporary Use Notice	Officers
Section 222	Hearing in relation to a Temporary Use Notice or to agree with other parties in the event of an objection that a hearing is unnecessary	Authorised Officer in consultation with Chair or Vice Chair of the Licensing Committee
Section 284	Making of Order to remove exemptions from specified premises	Licensing Sub-Committee
Section 346	Institution of criminal proceedings in respect of an offence under the provisions of the Act	Officers in consultation with the Chair or Vice-Chair of the Licensing Committee
Schedule 10 Paragraph 8	Determination of application for Family Entertainment Centre Gaming Machine Permit	Head of Administration (or in their absence the Central Services Manager) (Refusal to be exercised only in consultation with Chair or Vice-Chair of the Licensing Committee)
Schedule 10 Paragraphs 14 and 15	Notification of lapse of Family Entertainment Centre Gaming Permit	Officers in consultation with the Chair or Vice-Chair of the Licensing Committee
Schedule 11 Paragraph 44	Registration of society for small society lottery	Officers

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Schedule 11 Paragraph 48	Refusal of application for registration of society for small society lottery	Officers in consultation with the Chair or Vice-Chair of the Licensing Committee
Schedule 11 Paragraph 50	Revocation of registration of society for small society lottery	Officers in consultation with the Chair or Vice-Chair of the Licensing Committee
Schedule 11 Paragraph 54	Cancellation of registration of society for small society lottery for non-payment of annual fee	Officers
Schedule 12 Paragraphs 5 and 10 and 24	Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit in respect of which representations have been made (and not withdrawn)	Licensing Sub-Committee
	Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit where no representations received	Officers
Schedule 12 Paragraph 15	Determination of application for variation of Club Gaming Permit and in respect of which Club Registration Permit and cancellation of permit representations have been made (and not withdrawn)	Licensing Sub-Committee
	Determination of application for variation of Club Gaming Permit and Club Registration Permit and cancellation of permit where no representations received	Officers
Schedule 12 Paragraph 21	Cancellation of Club Gaming Permit and Club Registration Permit	Licensing Sub-Committee
Schedule 12 Paragraph 22	Cancellation of Club Gaming Permit and Club Registration Permit for failure to pay annual fee	Officers
Schedule 13 Paragraphs 4, 15 and 19	Determination of application for grant, variation or transfer of Licensed Premises Gaming Machine Permit	Officers (Refusal and limitation on number of machines only in consultation with Chair or Vice-Chair of the Licensing Committee)
Schedule 13 Paragraph 16	Cancellation of Licensed Premises Gaming Machine Permit or variation of number or category of machines in respect of which representations received (and not withdrawn)	Licensing Sub-Committee

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
	Cancellation of Licensing Premises Gaming Machine Permit and variation of number or category of machine where no representations received	Officers
Schedule 13 Paragraph 17	Cancellation of Licensed Premises Gaming Machine Permit for failure to pay annual fee	Officers
Schedule 14 Paragraphs 9 and 18	Determination of application for Prize Gaming Permit and application for renewal of Permit	Officers (Refusal only in consultation with Chair or Vice-Chair of Licensing Committee)
Schedule 14 Paragraph 15	Determination that Prize Gaming Permit has lapsed	Officers

### Appendix 3 to Table 7 Hackney Carriage and Private Hire Licensing

Matters to be dealt with	Full Committee	Sub-Committee	Officers
Application for a Drivers Licence where there are no concerns over their fitness and propriety			<b>X</b>
Application for a Drivers Licence where doubts on fitness and propriety are minor traffic offences			<b>X</b>
Application for a Drivers Licence where there is a lapse of time or circumstances for convictions fall outside of the Policy		<b>X</b>	
Application for a Drivers Licence where there is any other doubt on suitability		<b>X</b>	
Revocation of Driver or Operator Licence		<b>X</b>	
<u>Revocation of Drivers Licence where there is imminent jeopardy to public safety</u>			<b>X</b> <u>In consultation with the Chair/Vice Chair of the General Licensing and Registration Committee</u>
Revocation of Vehicle Licence			<b>X</b>
Suspension of Licences			<b>X</b>

## Table 8 - Delegations to the Corporate Director of Resources

### Executive Functions

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

- The proper administration of the Council's financial affairs
- The provision of Legal and Democratic Services to the Council
- HR and Employee Services
- Digital Services
- Coroners
- Land charges
- The Registration of Births, Deaths and Marriages
- Transactional and Customer Services
- Information Management and Governance
- Pensions
- Procurement, Sales and Business Services

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

### Specific and Non-Executive Delegations

1. To authorise the termination of employment of staff by reason of early retirement with voluntary redundancy. ~~Where there is a cost to the Council associated with the early release of pension benefits. This will be in consultation with the Cabinet Portfolio Member for Corporate Resources and Rural Issues~~ Holder for Finance.
2. To determine the early release of pension benefits on compassionate grounds, in consultation with the Cabinet Portfolio Member for Social Inclusion, having regard to any representations received from Opposition Group Leaders

### Transactional and Customer Services

3. To establish an appropriate Debt Management Strategy and Policy and to implement appropriate action to ensure the collection of revenue, council tax and business rates, including for the use of Enforcement Agents where appropriate.



4. The administration of housing benefit, the administration of the Local Council Tax Support Scheme, the administration of applications and awards in relation to Discretionary Housing Payments and the Council's Welfare Assistance Scheme.
5. The policy development and administration of Government funded financial support schemes.
6. The review and adoption of the Council's Discretionary Housing Payments Policy.
7. The review and adoption of the Council's Welfare Assistance Scheme Policy.
8. The review and adoption of the Council's Residential Care Charging Policy, in line with legislation, and the administration of billing and recovery of charges levied, including making arrangements for Deferred Payments, including:
  - (a) To waive or reduce charges for care services in individual cases.
  - (b) To disregard the value of a property in a financial assessment.
9. The review and adoption of the Council's Non-Residential Care Charging Policy, in line with legislation, and the administration of billing and recovery of charges levied, including making arrangements for Deferred Payments Arrangements, including:
  - (a) To waive or reduce charges for care services in individual cases.
  - (b) To disregard the value of a property in a financial assessment.
10. The provision of a Welfare Rights Service and the commissioning of Advice Services, including working with and supporting the Advice in County Durham Partnership.
11. To apply to the Court of Protection for Deputyship or single orders related to finance and property and to act as dually appointed Financial Appointee or Deputee for those individuals who lack mental capacity and are subject to such orders.
- 44.12. Establishing, reviewing and amending a charging policy for those for whom the Deputy and Appointeeship Team act as an appointee.
- 42.13. Completion of statutory submissions to Government of the council tax and business rates returns.
- 43.14. To establish and amend/update the Council Tax Exemption for Care Leavers Policy and to administer applications under this policy.

- ~~44-15.~~ To establish and amend/update the Council's Discretionary Rate Relief Policies and to administer applications under these schemes.
- ~~45-16.~~ To establish and amend the Council Tax Discretionary Reduction Policy and Business Rates Hardship Relief Policy and administer applications for relief under Section 13A(1)(c) of the Local Government Finance Act 1988.
- ~~46-17.~~ The operation and development of the systems supporting payments and financial support
- ~~47-18.~~ Agreement of remedies to customers in line with the Council's Corporate Complaints Policy

### Corporate Finance and Commercial Services

- ~~48-19.~~ To exercise MTFP, annual budget setting, budgetary control and final accounts functions (Revenue and Capital) referred to the Corporate Director under the Council's Financial Procedure Rules.
- ~~49-20.~~ To arrange all borrowings, financing and investment in line with the Council's Treasury Management Policy Statement.
- ~~20-21.~~ To make appropriate banking arrangements on behalf of the Council.
- ~~21-22.~~ The operation and development of the Council's financial systems.
- ~~22-23.~~ The operation and continuous improvement of the Council's accounting systems.
- ~~24.~~ To authorise the release of funds from contingencies as set out in the Revenue Budget.
- ~~23-25.~~ and To set the Council Tax Base at Local Council level and to forecast and to manage the Council's Collection Funds, making adjustments to payments to principal precepting bodies as appropriate.
- ~~26.~~ To establish such reserves as required and review them for both adequacy and purpose on a regular basis.
- ~~24-27.~~ To maintain all accounting records in relation to the Pension Fund, including the preparation of the Pension Fund Statement of Accounts and Annual Report.
- ~~25-28.~~ To act as Proper Officer for the purposes of the following provisions of the Local Government Act 1972:
- (a) Section 115(2) (Accountability of Officers);
  - (b) Section 146 (Transfer of Securities on Alteration of Area Etc.)

~~26-29.~~ To write off debts.

~~27-30.~~ To deal with the payment of Coroner's remuneration.

~~28-31.~~ To ensure appropriate financial arrangements across the Council.

~~29-32.~~ To agree the terms of loans permitted under law.

~~30-33.~~ To make a statutory declaration of local authority mortgage interest.

~~31-34.~~ To receive and respond to expressions of interest under Community Right to Challenge, under Part 5, Chapter 2 of the Localism Act 2011.

~~32-35.~~ To liaise with the Schools Forum on School Funding formula allocations and to advise Council on formula changes to ensure compliance with Department for Education guidance and regulations and the proper administration of Dedicated Schools Grant (DSG) allocations, including making applications to the Secretary of State for Education as appropriate for any necessary transfer of funding between the DSG funding blocks.

~~33-36.~~ To ensure appropriate arrangements are in place in respect of the effective administration of pooled DCC and NHS monies included within the Durham Better Care Fund and associated integrated budgets.

## Pensions

~~34-37.~~ In relation to the Pension Fund, to exercise the County Council's function as administering authority relating to the Local Government Pension Scheme including, but not restricted to, the following:

- (a) To ensure that Pension Fund complies with the Local Government Pension Scheme Regulations and all other legislation that governs the administration of the Pension Fund.
- (b) To exercise discretions the Council as administering authority has, under the regulations governing the Local Government Pension;
- (c) To administer the financial affairs of the Pension Fund;
- (d) To agree the write-off of bad debts;
- (e) To take any decision relating to the investment or management of the Pension Fund that cannot reasonably await the next meeting of the Pension Fund Committee.

- (f) To authorise, in cases of urgency, the taking of any action by a Manager of the Pension Fund that is necessary in order to protect the interests of the Fund.
- (g) To maintain all necessary accounts and records in relation to the Pension Fund, ~~including the preparation of the Annual Accounts;~~
- (h) To ensure that appropriate arrangements for the administration of benefits are in place, including the calculation of and payment of benefits, and collection of contributions;
- (i) To manage the triennial valuation of the Pension Fund including the preparation of membership data for actuarial valuation purposes.
- (j) To ensure appropriate Additional Voluntary Contribution arrangements are in place;
- (k) To exercise the Pension Fund's discretion over the beneficiary of any death grant payable.
- (l) To approve the payment of Dependants' Pensions in accordance with the Local Government Pension Scheme Regulations.
- (m) To maintain the system of internal control.
- (n) To accept for admission into the Pension Fund authorities and bodies, and their employees, in accordance with Local Government Pension Scheme Regulations.
- (o) To implement and maintain an appeals process under ~~deal with stage 2 appeals under~~ the dispute procedure for the Local Government Pension Scheme.
- (p) To set the appropriate investment objectives and the strategic asset allocation taking into consideration the Pension Fund's liabilities as calculated by the Pension Fund's Actuary;
- (q) To monitor and review the investments made by the Fund's appointed investment managers and to review their performance against established benchmarks. To report on the Investment Managers' performance to each meeting of the Pension Fund Committee;
- (r) To manage the Pension Fund's cash flow and allocate funds between investment managers in order to ensure that the Pension Fund's strategic asset allocation is maintained and invest the residual cash balances.

- (s) To manage the cash balances not allocated to Investment Managers in accordance with the Treasury Management Strategy and Policy approved by the Pension Fund Committee;
- (t) To arrange and authorise the provision of appropriate Member training, including the attendance at conferences and other similar pension fund related events by Members of the Pension Fund Committee and the Local Pension Board.
- (u) To prepare and submit the necessary Policy Statements to Pension Fund Committee and to arrange for the implementation and review of those statements, strategies, policies and procedures, as required. These include the Funding Strategy Statement
- (v) To prepare and submit the necessary plans and principles to the Pension Fund Committee and to arrange for the implementation and review of those plans and principles, as required. These include the Pension Fund Annual Report and the Investment Strategy Statement.
- (w) To review the Fund's approach to responsible investment and policy on social, environmental and ethical matters on the exercise of rights, including voting rights;
- (x) To produce as part of the Funding Strategy Statement, an assessment of identified risks in relation to the management of the Pension Fund.
- (y) To authorise sending instructions to and completing contracts, deeds or agreements with Border to Coast Pensions Partnership Limited to facilitate transition of assets to and management of collective investment vehicles and alternative investments within the Border to Coast pooled arrangements.
- (z) To monitor and review the investments made by Border to Coast Pensions Partnership Limited under pooled arrangements and to review performance against established benchmarks. To report on relevant investment performance of Border to Coast to each meeting of the Pension Fund Committee.
- (aa) To provide quarterly reporting to the Local Pension Board in line with the Board's Terms of Reference in order to assist the Board in securing compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme and the effective and efficient governance and administration of the Scheme.

## HR and Employee Services

- ~~35-38.~~ To implement the Council's decisions in relation to Single Status and Job Evaluation.
- ~~36-39.~~ To approve the regrading of posts up to and including Head of Service level.
- ~~37-40.~~ To seek to offer alternative employment to any permanent employee who becomes surplus to the requirements of the Service or whose employment is at risk through reasons of ill health or other incapacity.
- ~~38-41.~~ To determine applications for the extension of sick pay.
- ~~39-42.~~ To approve applications for leave of absence in cases not covered by the Council's policies.
- ~~40-43.~~ To agree variations to the Council's scheme for payments towards removal expenses, lodging allowances and legal fees for new employees.
- ~~41-44.~~ To approve overtime payments for employees above Grade 8.
- ~~42-45.~~ To authorise redundancy payments to school staff after consultation with the Head of Corporate Finance and Commercial Services.
- ~~43-46.~~ To decide, taking into account the opinion of an independent registered medical practitioner, whether under the Local Government Pension Scheme Regulations, a member is eligible for an ill health pension and if eligible, what level of ill health pension the scheme member should be awarded.
- ~~44-47.~~ To exercise discretions the Council as an employer has, under the regulations governing the Local Government Pension.
- ~~45-48.~~ To negotiate and agree local agreements changing staff terms and conditions of employment.
- ~~46-49.~~ To formulate and implement policies relating to employed staff.
- ~~47-50.~~ The operation and development of HR and Payroll systems.

## **Procurement Sales and Business Services**

- ~~48-51.~~ To exercise the contractual approval functions referred to the Corporate Director under the Council's Contract Procedure Rules.
- ~~49-52.~~ To ensure appropriate contractual arrangements across the Council in relation to the receiving of goods, works and services.
- ~~50-53.~~ To ensure appropriate procurement arrangements are in place in respect of pooled DCC and NHS (or other Partner(s) or Bodies) monies held by DCC on behalf of those named bodies or partners.

~~51-54.~~ Approve variations as set out in the Contract Procedure Rules or elsewhere in this Constitution.

~~52-55.~~ Authorise the collection of income from commercial activities.

~~53-56.~~ Authorise the use of professional services via the approved neutral vendor model delivery strategy

## Internal Audit, Fraud, Risk and Governance

~~54-57.~~ To maintain an effective internal audit service.

~~55-58.~~ To act as lead officer for the Audit Committee.

~~56-59.~~ To maintain an effective corporate fraud service.

~~57-60.~~ To act as the Risk Management Officer Champion and ensure appropriate risk management arrangements are in place across the Council.

~~58-61.~~ To act as lead officer for maintaining effective corporate governance arrangements and the preparation of the Annual Governance Statement.

## Digital Services

~~59-62.~~ Taking all operational decisions necessary to secure the provision of digital and ICT services and/or discharge of statutory functions, including the power to enter into contracts, in accordance with the approved policies and Financial Procedure Rules including, but not restricted to the following:

- (a) Maintenance and review of an appropriate IT and Digital Service, including a council-wide strategy and support for all business systems.
- (b) Development, maintenance, and assurance of all internal and external IT solutions/systems.
- (c) Management of the Council's resources and assets, systems, digital and information technology and maintenance and ongoing delivery of Operational ICT.
- (d) The governance/assurance of technical delivery and strategy pertaining to Cyber Security, Smart Place and Digital Place agendas, including Digital Inclusion.
- (e) Maintain the delivery of Change Services; Solution Architecture & Design ensuring the ongoing delivery of Digital Services to citizens, the council, and communities.

## Legal and Democratic Services

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

~~60-63.~~ To act as Proper Officer for the purposes of the Local Government Acts 1972 and 2000 and all Regulations made there under other than those Proper Officer functions delegated to the Corporate Director of Resources in connection with the administration of the Council's financial affairs. This delegation shall not derogate from the general delegation under Table 1 paragraph 8.

~~61-64.~~ To carry out the Proper Officer functions relating to the freedom of the City under the Durham City Council Act 1985.

~~62-65.~~ To act as Proper Officer for the Registration of Births, Deaths and Marriages Service pursuant to Schedule 29 paragraph 41 of the Local Government Act 1972 including administration of the arrangements for the licensing of premises under the Marriage Act and the appointment of staff.

~~63-66.~~ To approve premises for the solemnization of marriages and the registration of civil partnerships

~~64-67.~~ To amend the Constitution where necessary to reflect changes in the law or decisions of council bodies or to correct inaccuracies.

- (a) To prepare, negotiate and agree all legal documentation in relation to all land and property in the Council's ownership or for the acquisition of land and property by the Council.
- (b) To prepare, negotiate and agree all legal documentation other than those contained in sub-paragraph (a) relating to or affecting the functions of the Council.
- (c) To sign or attest the Council's seal in all legal documents referred to in sub-paragraphs (a) and (b) and all other legal documentation intended to give effect to decisions of the Council.
- (d) To sign or attest the Council's seal to all documents referred to in sub-paragraph (a).

~~65-68.~~ To prepare, negotiate and agree all legal documentation in relation to all land and property held by the Council as a trustee.

~~66-69.~~ To sign any notice, demand or other document on behalf of the Council in connection with any actual or contemplated legal or enforcement proceedings.



~~67-70.~~ Generally, to institute, defend and conduct any legal proceedings relating to the Council's functions or affecting the property, rights or interests of the Council.

~~68-71.~~ To commission external legal advice as required.

~~69-72.~~ To authorise named officers to appear on behalf of the Council in legal proceedings in the Magistrates' Court pursuant to Section 223 Local Government Act 1972.

~~70-73.~~ To settle any action in any court or tribunal in which the Council is a party or where legal proceedings are indicated providing that any settlement exceeding £50,000 will be subject to prior consultation first with the Corporate Director of Resources as s151 Officer and then with the Leader or Deputy Leader of the Council except in cases of urgency where the settlement is made on the advice of Counsel.

~~74.~~ To settle claims from staff for damage to personal property in accordance with the Council's policies.

~~75.~~ In relation to the Pension Fund, to exercise the County Council's function as administering authority relating to the Local Government Pension Scheme in the following way:

~~71-a.~~ To deal with stage 2 appeals under the dispute procedure for the Local Government Pension Scheme.

~~72-76.~~ In consultation with the Chair of the Corporate Overview and Scrutiny Management Board, to make payments or provide other benefits in cases of maladministration in accordance with Section 92 of the Local Government Act 2000 (as amended).

~~73-77.~~ To:

- i. appoint Members as proxies to attend and vote at shareholders meetings of any company of which the Council is a shareholder and
- ii. undertake the role of company secretary in any company for which the Council provides secretarial or administrative services.

~~74-78.~~ In consultation with the Chief Executive, to make appointments of Members to local and other outside bodies which are not the subject of report to the Council or the Executive, in consultation with the respective political group leaders.

~~75-79.~~ To appoint Review Boards under Regulations under Section 34(4) (Determination of Claims and Reviews) of the Social Security Act 1998.

~~76-80.~~ To make arrangements in relation to appeals against the exclusion of pupils from maintained schools.

- ~~77.81.~~ To make arrangements pursuant to Sections 94(1), (1A) and (4) of the Schools Standards and Framework Act 1998 (Admission Appeals).
- ~~78.82.~~ To make arrangements pursuant to Section 95(2) of the Schools Standards and Framework Act 1998 (Children to whom Section 87 applies; Appeals by Governing Bodies).
- ~~79.83.~~ In consultation with the Corporate Director for Neighbourhoods and Climate Change and the Chair and Vice-Chair of the Statutory Licensing Committee or General Licensing and Registration Committee as appropriate, to determine that a particular application shall be considered by the Statutory Licensing Committee or the General Licensing and Registration Committee rather than a Sub-Committee.
- ~~80.84.~~ To consider and respond to representations made by members of the public in relation to a decision to hold a meeting or part of that meeting in private.
- ~~81.85.~~ To discharge the Council's functions in relation to voluntary registrations of village greens as set out in section 15(8) Commons Act 2006.
- ~~82.86.~~ To discharge the Council's functions set out in Part 1 of the Commons Act 2006 and the Commons Registration Act 1965 with the exception of determinations under section 15(1) of the Commons Act 2006.
- ~~83.87.~~ To appoint an inspector to hold an inquiry into applications to register land as town or village green where appropriate.
- ~~84.88.~~ To appoint Assistant Coroners in accordance with the provisions of the Coroners and Justice Act 2009
- ~~85.89.~~ To deal with the payment of Coroner's expenses.
- ~~86.90.~~ To discharge the Council's functions in relation to Local Land Charges.
- ~~87.91.~~ To oversee the management of the Council's Overview and Scrutiny functions.
- ~~88.92.~~ To coordinate the Member Training and Development Programme including:
- i. management of the approved Member Training and Development Budget; and
  - ii. authorisation of Member attendance at conferences, seminars and other training and development events in consultation with the Leader.
- ~~89.93.~~ In consultation with the Chair of the Standards Committee, to approve any temporary appointment of an independent person to discharge the functions set

out in section 28(7) of the Localism Act 2011 where the position is vacant or an existing appointee is unable to act.

~~90-94.~~ To approve officer severance payments of less than £20,000.

~~94-95.~~ To authorise expenditure within the approved budget for civic hospitality.

## **Table 9 - Delegations for Major Programmes**

In addition to the delegations granted in this part of the Constitution, Chief Officers are authorised from time to time to carry out functions relating to specific projects in collaboration with various Cabinet Portfolio Members. The delegations to the Chief Officers are contained in the relevant Cabinet reports relating to the projects.

## Appendix 5

### Table 3 - Delegations to the Director for Regeneration, Economy and Growth

#### Executive Functions

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

- Archives and Records
- Arts and Culture
- Assets, Estates and Property Management
- Attracting inward investment
- Building Control
- Business Durham
- Building Facilities and Management
- CCTV (Internal use)
- Care Connect and CCTV (public space cameras)
- [Conservation](#)
- Construction Programme and Project Management including: Programme and Project Management, Quantity Surveying and Accounts, Construction and Design Management (CDM)
- Culture Sport and Leisure
- Dangerous Structures
- Durham Key options (Housing)
- Economic Development
- Economic Regeneration
- Employability
- External Funding and Programmes
- Health and Safety (Internal)
- Housing Renewal and Improvement
- Housing Management, Strategy and Policy
- Integrated Passenger Transport Unit
- Local Transport Planning
- Libraries
- Management of commercial property portfolio
- Marketing
- Mineral and Waste Applications
- Museums
- Neighbourhood Planning
- Parking Policy, Control and Enforcement
- Planning Applications and Appeals
- Prevention & Resolution of Homelessness
- Project Design, Development and Delivery

- Promoting enterprise
- Regeneration Policy and Programmes
- Selective Licensing (Housing)
- Strategic Spatial and Planning Policy
- Sport and Leisure Centres
- Tourism (Visit County Durham)
- Theatre and Performing Arts
- Strategic Transport and Traffic Management

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

### **Specific and non-executive delegations**

1. To review decisions made by the Head of Property and Land relating to the list of assets of community value.
2. In consultation with the Corporate Director of Resources as Section 151 Officer, the Cabinet Portfolio Holder for Resources, Investments and Assets and the Cabinet Portfolio Holder for Finance, to approve the acquisition of property up to the value of £500,000 where the property is to be used as a children's home only.

### **The following matters are, in addition, delegated to the Head of Planning and Housing:**

3. To exercise the Council's functions in relation to housing including:
  - (a) the determination of any applications for grant and/or housing assistance loans;
  - (b) the exercise of the Council's enforcement powers under the legislation relating to private sector housing;
  - (c) to investigate and determine all applications made to the Council under its powers and duties to deal with homelessness;
  - (d) to authorise any expenditure required in the exercise of the Council's functions to assist the homeless.
4. To carry out the Council's functions in relation to permanent Gypsy, Roma and Traveller sites, including allocation of sites, site management, rent recovery and tenant support.
5. To determine all forms of planning and other applications and all notifications submitted under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous

Substances) Act 1990 or under any related principal or secondary legislation, except the following:

- (a) those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days that any Member of the Council requests be determined by the Planning Committee (such must be made in writing to the Head of Planning and Housing specifying material planning grounds on which the request is made and received by the Head of Planning and Housing within 21 days of publication on the weekly list or the initial publication of the proposal (site notice / press notice / service of neighbour consultation letters, whichever is the latest);
- (b) those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days where a Member of the Council or an officer of the Planning Development Service or their spouse/partner or children has an interest in the property or land which is the subject of the application or notification and where there is an objection to the application or notification;
- (c) those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days where, despite a Town or Parish Council having expressed objection or support, the officer is minded to recommend the application or notification on material planning grounds contrary to the wishes of the local council and:
  - i) the local council have made a specific request in writing for the application or notification to go before a planning committee; and
  - ii) the local council have confirmed their intention to attend the planning committee to make representations on the application; and
  - iii) the written request is received by the Head of Planning and Housing within 21 days of publication on the weekly list or the initial publication of the proposal (site notice / press notice / service of neighbour consultation letters, whichever is the latest).
- (d) Major developments (excluding section 73 Reserved Matter applications and Review of Mineral Planning Permissions) comprising:
  - i) major residential developments (10 or more dwellings or a site area of 0.5ha or greater) except where the application is for a substitution of house types on a scheme already benefitting from an extant planning permission;
  - ii) development of more than 20,000m<sup>2</sup> of floor space or a site area of 4ha or greater comprised in Use Class B1 (Business) and/or Use Class B2 (General Industrial) and/or Use Class B8 (Storage or Distribution) or waste and waste related development; or

- iii) development not falling within (i) and (ii) above, where the floor space is 1000m<sup>2</sup> (gross) or more or the site area is 1 hectare or more except applications where the use or building would be for agriculture or personal equestrian use;
  - (e) those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days likely to have, in the opinion of the Head of Planning and Housing, a significant impact on the environment or are by their nature particularly controversial;
  - (f) those applications for planning permission, other applications and notifications which have a relevant timescale of more than 35 days recommended for refusal which involve the creation of 10 or more full time or equivalent jobs;
  - (g) those applications for planning permission or notifications which have a relevant timescale of more than 35 days where there is a significant departure from Development Plan policy and which would be required to be the subject of a notification to the Secretary of State.
6. The exercise of the Council's enforcement powers under legislation in relation to Common Land and Town and Village Greens.
  7. To decline to determine planning applications under Sections 70A, 70B and 70C of the Town and Country Planning Act.
  8. To finally dispose of planning applications pursuant to Article 40(13)(a) of the Town and Country Planning (Development Management Procedure) (England) Order 2015
  9. To take all necessary steps in connection with the defence of appeals against any refusal or failure to determine any of the applications and notifications mentioned at paragraph 5 above.
  10. To provide pre-application advice on proposed or anticipated development schemes in accordance with the Council's Pre-Application Advice Protocol.
  11. To respond to any pre-application or other consultation on nationally significant infrastructure projects submitted or to be submitted to the Major Infrastructure Planning Unit under the Planning Act 2008.
  12. To carry out reviews of planning permissions as required by the Habitats Directive and the Conservation of Habitats and Species Regulations 2017.
  13. To authorise the making and confirmation of a Direction under Article 4 of the Town and Country Planning (General Permitted Development) England Order 2015.



14. To authorise the making of proposals to the Secretary of State under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations.
15. In consultation with the Cabinet Portfolio Holder for Economic Regeneration and the member/s for the Electoral Division/s affected to determine applications for funding of schemes from monies held by the Council under planning obligations.
16. To authorise the drafting, negotiation and completion of Section 106 Planning Obligations, S106A Variations to Planning Obligations and Release of Section 52 Planning Agreements and Section 39 Agreements and to authorise the giving of any approval or consent required pursuant to a S106 Planning Obligation, S106A Deed of Variation or Section 52 Planning Agreement, or Section 39 Agreements.
17. Authorise, sign and serve all enforcement and other notices under the Town and Country Planning Act 1990, The Planning (Listed Buildings and Conservation Areas) Act 1990 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 on behalf of the Council.
18. Authorise the taking of prosecution action applications for injunctions and to instruct the Head of Legal and Democratic Services, as necessary, to instigate legal proceedings in respect of the enforcement of legislation relating to town and country planning and conservation.
19. To administer simple and conditional cautions in accordance with PACE and Home Office guidance to persons guilty of criminal offences under legislation relating to town and country planning and conservation.
20. Authorise the taking of default action under Sections 178 and 219 of the Town and Country Planning Act 1990.
21. Authorise the making of Orders under Section 257 of the Town and Country Planning Act 1990.
22. To authorise applications to the Secretary of State for an order under Sections 247 and 249 of the Town and Country Planning Act 1990.
23. To exercise powers of revocation/modification of planning permissions (Section 97), discontinuance of a use/alteration or removal of a building (Section 102 and Schedule 9) and the making of Prohibition or Suspension Orders (Schedule 9) of the Town and Country Planning Act 1990.
24. Authorise the making, confirmation, revocation and variations of Tree Preservations Orders and to determine applications for consent under such Orders.
- 24-25. To designate any areas to be of special architectural or historical interest as conservation areas; to review and amend the boundaries and conclude

Character appraisals and to formulate and prepare proposals for the preservation and enhancement of those areas.

25-26. To authorise the taking of all necessary steps in connection with Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Order.

26-27. Providing advice or assistance to Parish Council, Neighbourhood Forum or community organisation that is producing a Neighbourhood Plan or Order as required by para 3 of Schedule 4b to the Town and Country Planning Act 1990 (as amended).

27-28. In connection with any proposed development under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, determine whether an Environmental Impact Assessment is required (screening) and the information required (scoping).

28-29. Authorise individual named officers to exercise powers of entry contained in the following:

- The Hedgerow Regulations 1997
- Town and Country Planning Act 1990
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- Building Act 1984
- Fire Safety and Safety of Places of Sport Act 1987
- Safety of Sport Grounds Act 1975
- Local Government (Miscellaneous Provisions) Act 1982
- Party Wall etc Act 1996
- Planning Act 2008

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

29-30. To administer and determine complaints about high hedges and to take default action as necessary under the Anti-Social Behaviour Act 2003.

30-31. The obtaining of information under Section 330 of the Town and Country Planning Act 1990.

31-32. To exercise the Council's powers to take temporary possession of land pursuant to the Neighbourhood Planning Act 2017.

32-33. Act under and in respect of:

- (a) Sections 16, 19 to 21, 23 to 25, 32, 35 and 36, Building Act 1984;
- (b) Sections 77 to 78 and 80 to 83, Building Act 1984;

(c) Building Regulation 18 with regard to giving of notices and requiring the laying open, cutting into, and pulling down the building, works or fittings (Building Regulations 2010),

(d) Party Wall Act etc.1996.

~~33-34.~~ To respond to government and other consultations on Planning, Housing, Transport and Economic Policy.

~~34-35.~~ Accept and reject notices, certificates and certificates of compliance from Approved Inspectors and Public Bodies under Sections 47 to 54, Building Act 1984 and to issue safety certificates in accordance with the Safety of Sports Grounds Act 1975 and Part III, Fire Safety and Safety of Places of Sport Act 1987.

~~35-36.~~ To authorise, sign and serve all notices and deal with all applications, licences, revocations and suspensions and take all necessary enforcement action on behalf of the Council in respect of its responsibilities for matters of building control.

~~36-37.~~ The management of matters required to ensure the Council carries out its statutory duties as a local housing authority as prescribed in:

- Housing Act 1985
- Housing Act 1996
- Housing Act 2004
- Local Government and Housing Act 1989
- Localism Act 2011
- The Regulatory Framework set out by the Regulator for Social Housing and
- Any other relevant statute or government guidance relating to the management and provision of social housing and related facilities.

~~37-38.~~ In conjunction with the Head of Corporate Finance and Commercial Services maintain a Housing Revenue Account in accordance with sections 74 – 78 of the Local Government and Housing Act 1989.

~~38-39.~~ To exercise the Council's functions in respect of the preparation and development of appropriate strategies and plans for the Council's housing stock, including the Housing Investment Programme and Cyclical Maintenance Programmes including the construction, repair, maintenance, modernisation and redevelopment and renewal of properties including (but not limited to) house condition surveys and the preparation and implementation of programmes of repair and improvement.

~~39-40.~~ To prepare and keep under review from time to time the Council's Tenancy Strategy in line with the requirements of the Localism Act 2011.

40.41. In consultation with the Head of Corporate Finance and Commercial Services to take any decisions on the selection of property where it is appropriate to charge an affordable rent in line with the Regulator for Social Housing's Rent Standard.

41.42. Exercising the management of functions of the Council in relation to dwellings owned by the Council but not held under Part IV of the Housing Act 1985.

42.43. Without prejudice to the foregoing delegations, to exercise the following functions of the Council:

- (a) authorising the allocation and granting of tenancies and licenses in accordance with the Council's allocation scheme;
- (b) approving rents in specific cases;
- (c) serving and enforcing notices, to quit, of termination or seeking possession;
  - i) maintaining properties and estates;
  - ii) The management of empty properties;
- (d) granting consent or otherwise to the succession or assignment of a tenancy where statute allows and in line with the Council's policy;
- (e) granting consent to mutual exchanges, imposing conditions to that consent where appropriate or refusing such consent with reference to Schedule 3 of the Housing Act 1985
- (f) granting consent, imposing conditions to that consent where appropriate or otherwise withholding tenants' requests to carry out improvements or alterations in accordance with the Housing Act 1985 sections 97-99
- (g) granting consent or otherwise in any other matter where the Council's tenancy agreement including introductory tenancy agreement or licensees requires that permission is sought by the tenant or licensee;
- (h) authorising compensation for tenants' improvements be they statutory or discretionary (Housing Act 1985 sections 99a and 100);
- (i) settling any claims by tenants for disrepair,
- (j) taking action under sections 1 and 115 of the Crime and Disorder Act 1998, Part V of the Housing Act 1996, Anti-Social Behaviour Act 2003 and Housing Act 2004;
- (k) taking action to secure the eviction of trespassers;
- (l) undertaking consultation with tenants and / or social landlords where required by statute or government guidance or where otherwise

appropriate e.g. section 105 of the Housing Act 1985; and

- (m) authorise the granting of licenses for the use of garages, reviewing license conditions and subsequent termination of licenses where necessary.
- (n) Carry out the Council's statutory responsibilities under Part V of the Housing Act 1985 (Right to Buy).

43.44. Authorising service of statutory notices, admitting / denying the right to buy, withdrawing or requiring completion.

44.45. Authorising sales of freehold or otherwise granting of long leases

45.46. In consultation with the Head of Legal and Democratic Services, enforcing covenants including those relating to repayment of discount, use of shared areas and letting of whole.

46.47. In consultation with the Head of Legal and Democratic Services

- (a) Agreeing variations to the terms of individual leases.
- (b) Granting/refusing permission to requests on various matters, by leaseholders, where the lease requires consent of the landlord.
- (c) Authorising legal action for breaches of covenants.

47.48. Determining the application of covenants applied in relation to the Right to Buy under section 157 of the Housing Act 1985 relating to homes in areas covered by National Parks, Area of Outstanding Natural Beauty and Designated Rural Areas relating to:

- (a) Restriction of onward sales to people who have lived or worked in the area for a period of 3 years, or
- (b) Exercising the Council's first right of refusal to repurchase the property within first 10 years following the RTB sale.

48.49. Exercising the functions of the Council under Part X of the Housing Act 1985 and Part IV, Chapter 3, and Part VII of the Housing Act 2004 in relation to overcrowding.

49.50. Exercising the functions of the Council under the Protection from Eviction Act 1977, the Protection from Harassment Act 1997 and all other enabling powers to regulate and control private landlords.

50.51. Exercising the functions of the Council under the Landlord and Tenant Act 1985 (landlord's obligations).

51.52. In consultation with the Head of Corporate Finance and Commercial

Services, write off irrecoverable debt due from current and former tenants in compliance with the Council's write off policy.

~~52-53.~~ In consultation with the Head of Corporate Finance and Commercial Services, write off any un-refundable Credit balances associated with untraceable former tenants in compliance with the Council's write off policy.

~~53-54.~~ To determine disturbance payments and applications for home loss payments in accordance with the Land Compensation Act 1973.

~~54-55.~~ Undertaking and determining reviews under the Introductory Tenants (Review) Regulations 1997.

~~55-56.~~ To make decisions under Access to Personal Files (Housing) Regulations 1989.

~~56-57.~~ To authorise payments to tenants for decoration and removal expenses or approve ex-gratia payments in appropriate circumstances.

~~57-58.~~ Agreeing terms with private landlords and registered social landlords to lease accommodation for the purposes of providing temporary housing for homeless households.

~~58-59.~~ To consider and determine any matters relating to the Housing Act 1985 (as amended in respect of Right to Buy including the repayment of discount and right of first refusal.

~~59-60.~~ To ensure compliance with all Council policies relating to the provision and management of Council owned residential properties. Council to make changes to all such policies where provision of service would be improved, or necessity arises or to recommend such changes to Cabinet where appropriate.

~~60-61.~~ To establish such arrangements as appropriate to ensure effective engagement of tenants and leaseholders in the setting, monitoring and review of housing and related services including holding meetings, organising consultation events, surveys, and newsletters.

~~61-62.~~ To consider and respond to requests from Durham Police in respect of the designation of dispersal areas under the provisions of the Anti- Social Behaviour Crime and Policing Act 2014.

~~62-63.~~ Provision and operation of closed-circuit television in accordance with the Criminal Justice and Public Order Act 1994 and the Private Security Industry Act 2001.

### **The following matters are, in addition, delegated to the Head of Corporate Property and Land:**

~~63-64.~~ In consultation with the Local Members and the relevant Cabinet Portfolio Member, to sell or lease any property which is surplus to the requirements of

the Service for which it is held and where after enquiries no other Service has expressed an interest in the property.

- ~~64-65~~. To approve the principle of acquiring property at a price not exceeding £250,000.
- ~~65-66~~. To settle the terms of the purchase or lease of property the acquisition of which has been approved in principle by the Council and to settle any dilapidation claim at the end of any lease acquired.
- ~~66-67~~. To negotiate the acquisition of easements, rights of way, wayleaves, licences, covenants and consents for the benefit of Council land and property at a value not exceeding £250,000.
- ~~67-68~~. To accept the dedication or transfer of land to be maintained as public open space subject to satisfactory terms being negotiated for contribution to the cost of maintenance.
- ~~68-69~~. To deal with applications for easements, rights of way, wayleaves, licences, covenants and consents affecting council land and property not materially affecting the use to which it is or might be put.
- ~~69-70~~. To approve the granting of an option over Council land or the acquiring by the Council of an option over land and to approve the extension of any option granted or acquired.
- ~~70-71~~. To authorise the use of Council land as a permissive right of way and/or to dedicate Council land as a public right of way.
- ~~71-72~~. In consultation with the appropriate Service representative to grant leases on any council owned property, whether or not it has been declared surplus.
- ~~72-73~~. In respect of leases, to carry out rent reviews and to grant renewals, variations, assignments, sub-lettings, surrenders and other landlords' consents.
- ~~73-74~~. To agree the appropriation of land from one use to another where this is necessary to facilitate schemes to be carried out by or on behalf of the Council.
- ~~74-75~~. To settle compensation claims not exceeding £50,000 either under the provisions of Part 1 of the Land Compensation Act 1973 or as a result of the Council taking entry to property for borehole samples, surveys or other site investigations.
- ~~75-76~~. To negotiate and agree the rating assessment and valuation of all council owned property, in consultation with the Head of Corporate Finance and Commercial Services.
- ~~76-77~~. To require information as to interests in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

~~77-78.~~ To negotiate abortive costs in the event of a transaction not proceeding in circumstances where the Council has a liability to pay costs.

~~78-79.~~ Where required as part of the appropriate management of the Council's assets, to authorise the demolition of Council buildings.

~~79-80.~~ To approve disposals and appropriations of Open Space and Public Walks and Pleasure Grounds as set out in Section 10 of the Open Spaces Act 1906 and Section 164 of the Public Health Act 1875 subject to seeking guidance from the Highways Committee in the event of unresolved objections being received.

~~80-81.~~ To authorise and maintain a list of assets of community value and to make adjudications and decisions in relation thereto, as defined in Part 5, Chapter 3 of the Localism Act 2011.

~~81-82.~~ All duties arising out of the establishment of the Business Improvement Districts.

~~82-83.~~ To authorise land disposals at an undervalue in excess of £50,000. Disposals at an undervalue in excess of £2 million require Secretary of State approval.

~~83-84.~~ Serve, receive and act upon legal notices and apply for permissions, in the exercise of any discretionary power or in complying with any duty of the Council in relation to land and property.

### **The following matters are, in addition, delegated to the Head of Transport and Contract Services:**

~~84-85.~~ To cancel penalty charge notices in respect of parking contraventions under the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.

~~85-86.~~ To exercise the Council's powers under the Traffic Management Act 2004 and Transport Act 2000 to:

- (a) issue a penalty charge notice in connection with parking offences and part of the civil parking regime
- (b) allow exceptions to normal civil parking enforcement practices where appropriate

~~86-87.~~ To authorise the taking of prosecution action applications for blue badge misuse and abuse and to instruct the Head of Legal and Democratic Services, as necessary, to instigate legal proceedings in respect of the Council's powers of enforcement of legislation relating to highways and road traffic.



87-88. To administer simple and conditional cautions in accordance with PACE and Home Office Guidance to persons guilty of criminal offences under legislation relating to highways and road traffic.

88-89. To deal with the provision and maintenance of bus stop infrastructure in highways and, if necessary, land abutting highways.

89-90. To undertake non-statutory consultations before implementing proposals to locate bus stop infrastructure, subject to consultation with Highways Committee before exercising this delegated power if there are unresolved representations to such proposals.

90-91. To update and amend as necessary the list of streets maintained under Section 36(6) of the Highways Act 1980

**The following matters are, in addition, delegated to the Head of Culture, Sport and Tourism:**

91-92. To authorise suitably qualified and competent staff within Culture, Sport and Tourism and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under all legislation relating to the Council's functions in respect of Culture, Sport and Tourism.

92-93. To exercise the Council's functions under all legislation relating to its role as Library Authority.

93-94. In consultation with the Head of Legal and Democratic Services to take enforcement action under bye-laws relating to arts, libraries and museums.

94-95. To approve agency agreements where financial transactions are not required.

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## Appendix 6

### Table 5 - Delegations to the Director of Public Health

#### Specific Delegations

1. Under Section 73A(1) of the National Health Service Act 2006 inserted by section 30 of the Health and Social Care Act 2012;
  - (a) To contribute to and influence the work of the NHS Commissioners, ensuring a whole system approach across the public sector and ensuring NHS commissioners receive the public health advice they need;
  - (b) To undertake duties to take steps to improve public health;
  - (c) To undertake such other public health protection or health improvement functions that the Secretary of State delegates to Local Authorities either by arrangement or under regulations- these include services mandated by regulations under Section 6C of the 2006 Act Inserted by section 18 of the 2012 Act;
  - (d) To respond as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications;
  - (e) To promote Healthy Start Vitamins (under the Healthy Start and Welfare Food Regulations 2005) for maternity or child health clinics;
  - (f) To consult and make decisions on Fluoridation Schemes;
  - (g) The commissioning of services in relation to 0-5 children's public health.
2. To take responsibility for the management of the Council's Public Health Services and function, with professional responsibility and accountability for their effectiveness, availability, and value for money.
3. To provide leadership, expertise and advice to Senior Officers and Elected Members on a range of issues from outbreaks of disease and emergency preparedness through to improving local people's health concerns and around access to health services.
4. To provide the public with expert, objective advice on health matters.
5. To promote action across the life course, working together with council colleagues such as the Corporate Director of Adults and Health Services and with NHS colleagues.
6. To work with local Criminal Justice Partners and Police and Crime Commissioners to promote safer communities, including cooperating with the police, the probation service, and the prison service to assess the risk posed by violent or sexual offenders.
7. Under the National Health Service Act 2006 and the Health and Social Care Act 2012, to discharge any functions in relation to the corporate public health duties of the Council including responsibility for writing the

annual report on the health of the local population. (The Council has a duty to Publish this report under section 73B (5) & (6) of the 2006 Act and Section 31 of the 2012 Act).

8. Under section 6C of the National Health Service Act 2006;
  - (a) To ensure appropriate access to sexual health services;
  - (b) To take responsibility for the National Child Measurement Programme;
  - (c) To take responsibility for the NHS Health Check Assessment;
  - (d) Support to NHS Commissioners.
9. To input into the Local Health Resilience Partnership (LHRP) for County Durham, Darlington, and Tees Valley.
10. To seek assurance of the NHS screening programmes, both cancer and non-cancer, ante-natal and children's screening programmes, ensuring the health of the population is adequately protected and raising issues and concerns appropriately.
11. To seek assurance of the NHS immunisation programmes including children 0-5 years, HPV and seasonal flu and any other that the Secretary of State instructs, including catch up programmes, raising issues and concerns appropriately.
12. Implementing or determining, subject to any rights of review or appeal which may apply, all matters concerning the Statutory Public Health complaints procedure.
13. Setting, varying, and recovering charges in respect of certain steps taken in the exercise of health improvement duties.
14. To advise and contribute to the preparation of the Pharmaceutical Needs Assessment.

## Appendix 7

### Table 6 - Delegations to the Corporate Director of Children and Young People's Services

#### Executive Functions

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

#### General

1. To be the Council's appointed Director(s) of Children's Services in accordance with section 18(1) of the Children Act 2004, with responsibility for the discharge of the local authority's education and children's social services functions as set out in section 18(2) of that Act.
2. To act as the statutory officer under section 18(1) of the Children Act 2004 and provide arrangements for the safeguarding of vulnerable children and for promoting the wellbeing of children and families.
3. To meet the requirements as set down by regulatory and inspection bodies in relation to the operation of children and young people's services.
4. To set and vary fees and charges for delivery of children and young people's services.
5. To undertake joint collaborative action as appropriate with the National Health Service and other partner organisations for the planning and provision of jointly operated services within the County for children and young people.
6. To discharge relevant statutory duties and powers related to mental health services for children and young people in accordance with the Mental Health Act 1983.
7. To implement or determine, subject to any right of review or appeal which may apply, all matters concerning the statutory and corporate complaints procedure relating to children and young people.
8. To exercise relevant functions on behalf of an NHS body so far as it relates to children and young people.

9. To commission and agree payments to external providers in respect of services arranged by the Corporate Director of Children and Young People's Services.
10. In conjunction with the Corporate Director for Adults and Health Services, to coordinate the provision of services to children and young people who are transitioning into adulthood.
11. In conjunction with the Director of Public Health, to improve the health of children in the local area.
- 4-12. To fulfil the Council's duty to cooperate with Multi Agency Public Protection Arrangements (MAPPA).

## **Children's Social Care**

13. The exercise of the Council's powers and duties in relation to the provision of social services so far as those functions relate to:
  - (a) Children; or
  - (b) Children and young people leaving care
- 2-14. To approve foster parents
15. To establish and maintain an adoption service in accordance with the Adoption Acts, which may include the establishment and maintenance of a Regional Adoption Agency.
16. To discharge the Council's responsibility in relation to the Sufficiency Duty and ensuring that there is sufficient suitable homes and accommodation for children in care.
17. To make arrangements for the provision of Local Authority Children's homes and their management and to ensure that they are registered as children's homes.
18. To discharge section 13 of the Children Act 2004 which requires local authorities and other named statutory partners to make arrangements to ensure that their functions are discharged with a view to safeguarding and promoting the welfare of children. This includes planning to prevent children from going missing and to protect them when they do.

## **Education and Skills**

19. To manage the Council's function as Local Education Authority, in accordance with strategic plans approved by the Council and governing legislation.

20. To exercise the Council's powers and duties in relation to the provision and commissioning of education and training opportunities for young people as determined by the Education Act 1996 and Education and Skills Act 2008 and all other legislation and guidance relating to education and training for young people.
21. To provide, operate and commission vocational training and allied services for persons over compulsory school age, including the provision of secure boarding accommodation for young people aged over 16 but under 25 who are subject to a learning difficulty assessment and promotion of arrangements to assist persons to obtain employment and employers to obtain employees.
22. To discharge the statutory duty under s22(3A) of the Children Act 1989 to promote the educational achievement of children in care, including those children placed out of authority, and to appoint an officer to make sure that its duty to promote the educational achievement of its children in care is properly discharged.
23. To make free-of-charge home to school travel arrangements to facilitate the attendance at school of eligible children resident in the area.
24. To deliver duties identified in section 2 of the Childcare Act 2016 and sections 6, 7, 7A, 9A, 12 and 13 of the Childcare Act 2006, including the requirement to secure sufficient childcare for working parents, to provide information, advice and assistance to parents and prospective parents and to secure the equivalent of 30 hours of free childcare over 38 weeks of the year for qualifying children.
25. To make arrangements for suitable education for permanently excluded pupils, and for other pupils who, because of illness or other reasons, would not receive suitable education without such arrangements being made.
26. To discharge functions relating to school admissions and ensure that admission arrangements are compliant with the School Admissions Code.
27. To discharge responsibilities under the Education Act 1996 to secure school places.

### **Early Help, Inclusion and Vulnerable Children**

28. To ensure the effective and lawful operation of a secure unit in accordance with the licence requirements set by the Office for Standards in Education, Children's Services and Skills (OFSTED).
29. To discharge the Council's powers and duties in the Children and Families Act 2014 in relation to children and young people with Special Educational Needs and Disabilities, including the publication of a 'Local Offer' which sets out services available for children and young and people with special educational needs between the ages of 0-25.

30. To discharge the Council's responsibilities under section 39(1) of the Crime and Disorder Act 1998 which requires the cooperation of the named statutory partners to form a Youth Justice Service.

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

## **Specific Delegations**

~~3-31.~~ \_\_\_\_ To meet the requirements as set down by regulatory bodies in relation to the employment, registration and training of all registrable staff.

~~4-32.~~ \_\_\_\_ To license the employment of children in accordance with the Children and Young Persons Act 1933.

~~5-33.~~ \_\_\_\_ To be the lead Director on the Local Safeguarding Children's Partnership in accordance with legislation and guidance.



## Appendix 8

### Table 7 - Delegations to the Corporate Director of Neighbourhoods and Climate Change

#### Executive Functions

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

- Allotments
- Anti-Social Behaviour
- Bereavement services
- Civic Pride
- Clean and Green including: Street Cleansing, Public Realm/ Open Space
- Community Buildings
- Community Development and Area Action Partnerships
- Community Engagement
- Support for statutory partnerships including community safety (incorporating the responsibilities under the Counter Terrorism and Security Act 2015 – the Prevent function), health and wellbeing, children and adults safeguarding.
- [Safer Communities including Local Multi Agency Problem Solving groups \(LMAPS\).](#)
- Archaeology and Ecology
- Consumer Protection including Fair Trading, Safety and Metrology, Licensing and Markets
- County Fleet
- Emergency Planning and Civil Contingencies
- Environment Policy
- Government Migration Programmes
- Gypsy, Roma, Traveller Services
- Highway Services including: Highway Design, Construction and Maintenance, Winter Maintenance
- Maintenance, Parks and Grounds
- Neighbourhood Interventions
- Neighbourhood wardens
- Parks and Countryside
- Partnership Co-ordination and support for the County Durham Partnership
- Pest Control
- [Private Sector Housing regulation](#)
- [Public Health Protection and infectious disease outbreak control](#)
- Public Rights of Way
- Refuse and Recycling including Waste Transfer Stations

- [Special Criminal Investigations including tobacco control](#)
- Strategic Highways including: Drainage and Coastal Protection, Network Management, Client, Policy and Asset Management, Road Safety
- Strategic Waste including Waste Contract and Management Strategy
- Sustainability & Climate Change
- Voluntary Sector and Local Councils

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

### **Specific and non-executive delegations**

1. To review decisions made by the Head of Corporate Property and Land relating to the list of assets of community value.

### **The following matters are, in addition, delegated to the Head of Environment:**

2. To authorise suitably qualified and competent staff within Environmental Services and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under all legislation related to the Executive functions in paragraph 1 of Table 7.
3. To authorise suitably qualified and competent staff within Environmental Services to discharge the regulatory and enforcement functions of the Council related to the Executive functions in paragraph 1 of Table 7.
4. To exercise the Council's enforcement functions including, [where appropriate](#), the institution of legal proceedings under all legislation related to the Executive functions in paragraph 1 of Table 7.
5. To issue simple and conditional cautions in accordance with PACE and the Home Office Guidance to persons guilty of criminal offences under legislation relating to Executive functions in paragraph 1 of Table 7.
6. To exercise functions as Waste Collection and Disposal Authority under all legislation relating to Waste Management.
7. In consultation with the Head of Legal and Democratic Services, to make, confirm, amend, vary, modify, consolidate and revoke orders under the legislation relating to Executive functions listed in Paragraph 1 of Table 7.
8. To manage the Council's allotments which includes responsibility for the grant, renewal and termination of allotment tenancies.

## The following matters are, in addition delegated to the Head of Highways:

9. Generally to take action and operate all legislative, enforcement and administrative procedures in relation to the Council's functions and duties as a highway authority and street authority. Specifically but not exclusively to:
  - (a) maintain a register of adopted streets, enter into agreements for adopting highways and adopt private streets by notice;
  - (b) take any necessary action in connection with the Advance Payments Code and to make highway funding agreements;
  - (c) determine applications for licences, permits and consents in connection with vehicle crossings, builders skips, use of traffic signs, placing/licensing amenities in the highway, erection of emergency barriers, scaffolding, hoardings and the deposition of building materials on the public highway, excavations and openings in the highway, vaults and cellars, street works and permits;
  - (d) exercise the Council's common law powers to remove obstructions and abate nuisances on the highway;
  - (e) take action to protect highways rights and deal with obstructions;
  - (f) direct unauthorised campers to leave highway land and to apply for court order to remove vehicles off the highway;
  - (g) to make temporary road closure orders/notices, orders closing streets for processions etc and exercise the Council's powers;
  - (h) enforce all the provisions of and initiate legal proceedings under all the sections of the Highway Act 1980;
  - (i) to exercise the Council's powers under the Durham City Council Act 1985 in relation to the temporary closure of footpaths;
  - (j) to grant street works license under section 50 of the New Roads and Street Works Act 1991
  - (k) to issue fixed penalty notices to statutory undertakers who fail to serve correct notices under the New Roads and Street Works Act 1991 to carry out works on the road network;
10. To exercise all the Council's functions relating to provisions of the Highways Act 1980 as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) 2000 Regulations.
11. To authorise suitably qualified and competent staff within Highways and other persons acting on behalf of the Council, for the purposes of discharging duties and powers regulatory and enforcement functions under the legislation relevant to the role of Head of Highways.
12. To exercise the Council's enforcement functions, including, where appropriate, the institution of legal proceedings, under all legislation relevant to the role of Head of Highways.
13. In consultation with the Head of Legal and Democratic Services, to make, confirm, amend, vary, modify, consolidate and revoke orders under the legislation relevant to the role of Head of Highways.

14. To exercise the functions of land drainage and Lead Local Flood Authority.

15. To exercise all of the Council's functions relating to public rights of way as set out in Part 1 of Section I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 except matters reserved to the Highways Committee.

### **The following matters are, in addition, delegated to the Head of Partnerships and Community Engagement:**

45-16. To authorise the expenditure of Neighbourhood and Area budgets approved by the Council in consultation with the relevant Area Action Partnership Board and the appropriate local Member(s).

46-17. To support and co-ordinate partnership boards including and not limited to community safety/ crime and disorder; health and wellbeing; children, young people and families.

47-18. To plan and deliver requirements for welcoming and supporting refugees and individuals seeking asylum, including capacity within the County as part of the Government Migration Programme.

### **The following matters are, in addition, delegated to the Head of Community Protection:**

48-19. To exercise all of the Council's functions including licensing, registration, making of orders, issue of notices and enforcement in respect of the following matters referred to in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000:

- (a) Performances of hypnotism;
- (b) Premises for acupuncture, tattooing, ear piercing and electrolysis;
- (c) Pleasure boats and pleasure vessels;
- (d) Night cafes and take-away food shops;
- (e) Sale of non-medicinal poisons;
- (f) Premises for the preparation of food including registration;
- (g) Scrap yards;
- (h) Pet shops and the breeding and boarding of dogs or other animals;
- (i) Animal trainers;
- (j) Knackers' yards;
- (k) Charitable collections;
- (l) Operation of loudspeakers;
- (m) Street works licences;
- (n) Movement and sale of cattle and pigs;
- (o) Storage of celluloid;
- (p) Meat, fish, dairy and egg product establishments and butchers' shops;
- (q) Motor salvage operations;
- (r) Health and safety at work;

- (s) Smoke-free premises and vehicles;
- (t) Caravan and camping sites and moveable dwellings

19-20. To exercise the Council's functions in relation to:

- (a) The control of pollution and the management of air quality;
- (b) Statutory nuisances, as referred to in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- (c) Contaminated land;
- (d) Port health.

20-21. To exercise the Council's licensing, approval, registration and enforcement functions, including, where appropriate, the institution of legal proceedings under legislation relevant to the role of Head of Community Protection. This will include all forms of Licensing, Environmental Health, Statutory nuisance, Contaminated land, Food Safety, Consumer Protection, Trading Standards and Animal Welfare.

21-22. Subject to Appendices 1, 2 and 3 to this Table to authorise, suspend, vary, transfer, extend or revoke permits, licences, certificates, registrations and approvals issued under the legislation.

22-23. To issue simple and conditional cautions and in accordance with PACE and the Home Office Guidance to persons guilty of criminal offences under legislation falling within the role of Head of Community Protection.

23-24. To authorise suitably qualified and competent staff within the Community Protection Service and other persons acting on behalf of the Council, for the purposes of discharging duties and powers relating to the Executive Functions in paragraph 1 of Table 7 and under legislation falling within the role of Head of Community Protection.

24-25. To authorise another local authority to institute legal proceedings in respect of alleged contraventions of legislation where related contraventions are being investigated by that authority.

25-26. To grant authorisations in relation to illegal money lending and unfair trading practices.

26-27. To agree transfers and assignments under health and safety legislation to change Enforcing Authority responsibilities.

27-28. To appoint Proper Officers and alternate Proper Officers for the Authority for matters relating to Public Health, Port Health and the Control of Infectious Disease.

29. To appoint Public Analyst, Agricultural Analyst and Food Examiner for the Council.

30. The management of matters required to ensure the Council carries out its statutory duties as a local housing authority as prescribed in:

- Housing Act 1985
- Housing Act 1996
- Housing Act 2004
- Local Government and Housing Act 1989
- Localism Act 2011
- Any other relevant statute or government guidance relating to private sector housing.

31. To exercise the Council's regulatory functions in relation to the regulation of private sector housing, including:

- a. To exercise the Council's enforcement powers under the legislation relating to private sector housing;
- b. Licensing of Houses in Multiple Occupation;
- c. To exercise the functions of the Council under Part X of the Housing Act 1985 and Part IV, Chapter 3, and Part VII of the Housing Act 2004 in relation to overcrowding.

~~28-32.~~ Act under and in respect of Sections 59-63, 76, 79 Building Act 1984.

~~29-33.~~ To authorise Officers to institute and or defend on behalf of the Council any legal proceedings which the Council by itself, or by a duly empowered Committee, may decide to take. In this respect, nominated staff are hereby authorised to appear in Court in person, or to be represented by a duly appointed officer of the Council in accordance with Section 223 of the Local Government Act 1972 or to be represented by a duly instructed solicitor.

~~30-34.~~ To determine those applications and matters in relation to Licensing and Gambling as are referred to in Appendices 1, 2 and 3 to this Table.

35. To agree terms of conditions and licences in accordance with published best practice and/or guidance.

~~31-36.~~ Determine suitability of a person to carry on business as a scrap metal dealer and to revoke existing licences and impose licence conditions in accordance with the Scrap Metal Dealers Act 2013, as appropriate.

## Appendix 1 to Table 7

### Delegation of Licensing Act 2003 responsibilities

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

## Appendix 2 to Table 7 Gambling Act 2005 Scheme of Delegations

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



<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Section 204	Determination of application for provisional statement in respect of Premises Licence where representations have been made (and not withdrawn)	Licensing Sub-Committee
	Determination of application for provisional statement in respect of which no representations received	Officers
Section 205	Decision to disregard representations made in respect of application for a Premises Licence after issue of provisional statement	Officers in consultation with the Chair or Vice-Chair of the Licensing Committee
Section 218	Issue of counter notice to Temporary Use Notice where number of permitted days are exceeded	Officers
Section 221	Objection to Temporary Use Notice	Officers
Section 222	Hearing in relation to a Temporary Use Notice or to agree with other parties in the event of an objection that a hearing is unnecessary	Authorised Officer in consultation with Chair or Vice Chair of the Licensing Committee
Section 284	Making of Order to remove exemptions from specified premises	Licensing Sub-Committee
Section 346	Institution of criminal proceedings in respect of an offence under the provisions of the Act	Officers in consultation with the Chair or Vice-Chair of the Licensing Committee
Schedule 10 Paragraph 8	Determination of application for Family Entertainment Centre Gaming Machine Permit	Head of Administration (or in their absence the Central Services Manager) (Refusal to be exercised only in consultation with Chair or Vice-Chair of the Licensing Committee)
Schedule 10 Paragraphs 14 and 15	Notification of lapse of Family Entertainment Centre Gaming Permit	Officers in consultation with the Chair or Vice-Chair of the Licensing Committee
Schedule 11 Paragraph 44	Registration of society for small society lottery	Officers
Schedule 11 Paragraph 48	Refusal of application for registration of society for small society lottery	Officers in consultation with the Chair or Vice-Chair of the Licensing Committee

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Schedule 11 Paragraph 50	Revocation of registration of society for small society lottery	Officers in consultation with the Chair or Vice-Chair of the Licensing Committee
Schedule 11 Paragraph 54	Cancellation of registration of society for small society lottery for non-payment of annual fee	Officers
Schedule 12 Paragraphs 5 and 10 and 24	Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit in respect of which representations have been made (and not withdrawn)	Licensing Sub-Committee
	Determination of application for Club Gaming Permit and Club Registration Permit and for renewal of permit where no representations received	Officers
Schedule 12 Paragraph 15	Determination of application for variation of Club Gaming Permit and in respect of which Club Registration Permit and cancellation of permit representations have been made (and not withdrawn)	Licensing Sub-Committee
	Determination of application for variation of Club Gaming Permit and Club Registration Permit and cancellation of permit where no representations received	Officers
Schedule 12 Paragraph 21	Cancellation of Club Gaming Permit and Club Registration Permit	Licensing Sub-Committee
Schedule 12 Paragraph 22	Cancellation of Club Gaming Permit and Club Registration Permit for failure to pay annual fee	Officers
Schedule 13 Paragraphs 4, 15 and 19	Determination of application for grant, variation or transfer of Licensed Premises Gaming Machine Permit	Officers (Refusal and limitation on number of machines only in consultation with Chair or Vice-Chair of the Licensing Committee)
Schedule 13 Paragraph 16	Cancellation of Licensed Premises Gaming Machine Permit or variation of number or category of machines in respect of which representations received (and not withdrawn)	Licensing Sub-Committee
	Cancellation of Licensing Premises Gaming Machine Permit and variation of number or category of machine where no representations received	Officers
Schedule 13 Paragraph 17	Cancellation of Licensed Premises Gaming Machine Permit for failure to pay annual fee	Officers
Schedule 14	Determination of application for Prize Gaming Permit and application for renewal of Permit	Officers (Refusal only in consultation)

<b>Gambling Act 2005</b>	<b>Functions</b>	<b>Delegation</b>
Paragraphs 9 and 18		with Chair or Vice-Chair of Licensing Committee)
Schedule 14 Paragraph 15	Determination that Prize Gaming Permit has lapsed	Officers

### Appendix 3 to Table 7 Hackney Carriage and Private Hire Licensing

Matters to be dealt with	Full Committee	Sub-Committee	Officers
Application for a Drivers Licence where there are no concerns over their fitness and propriety			<b>X</b>
Application for a Drivers Licence where doubts on fitness and propriety are minor traffic offences			<b>X</b>
Application for a Drivers Licence where there is a lapse of time or circumstances for convictions fall outside of the Policy		<b>X</b>	
Application for a Drivers Licence where there is any other doubt on suitability		<b>X</b>	
Revocation of Driver or Operator Licence		<b>X</b>	
<u>Revocation of Drivers Licence where there is imminent jeopardy to public safety</u>			<b>X</b> <u>In consultation with the Chair/Vice Chair of the General Licensing and Registration Committee</u>
Revocation of Vehicle Licence			<b>X</b>
Suspension of Licences			<b>X</b>

## Appendix 9

### Table 8 - Delegations to the Corporate Director of Resources

#### Executive Functions

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

- The proper administration of the Council's financial affairs
- The provision of Legal and Democratic Services to the Council
- HR and Employee Services
- Digital Services
- Coroners
- Land charges
- The Registration of Births, Deaths and Marriages
- Transactional and Customer Services
- Information Management and Governance
- Pensions
- Procurement, Sales and Business Services

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

#### Specific and Non-Executive Delegations

1. To authorise the termination of employment of staff by reason of early retirement with voluntary redundancy. Where there is a cost to the Council associated with the early release of pension benefits, this will be in consultation with the Cabinet Portfolio ~~Member for Corporate Resources and Rural Issues~~ Holder for Finance.
2. To determine the early release of pension benefits on compassionate grounds, in consultation with the Cabinet Portfolio Member for Social Inclusion, having regard to any representations received from Opposition Group Leaders.

#### Transactional and Customer Services

3. To establish an appropriate Debt Management Strategy and Policy and to implement appropriate action to ensure the collection of revenue, council tax

and business rates, including for the use of Enforcement Agents where appropriate.

4. The administration of housing benefit, the administration of the Local Council Tax Support Scheme, the administration of applications and awards in relation to Discretionary Housing Payments and the Council's Welfare Assistance Scheme.
5. The policy development and administration of Government funded financial support schemes.
6. The review and adoption of the Council's Discretionary Housing Payments Policy.
7. The review and adoption of the Council's Welfare Assistance Scheme Policy.
8. The review and adoption of the Council's Residential Care Charging Policy, in line with legislation, and the administration of billing and recovery of charges levied, including making arrangements for Deferred Payments, including:
  - (a) To waive or reduce charges for care services in individual cases.
  - (b) To disregard the value of a property in a financial assessment.
9. The review and adoption of the Council's Non-Residential Care Charging Policy, in line with legislation, and the administration of billing and recovery of charges levied, including making arrangements for Deferred Payments Arrangements, including:
  - (a) To waive or reduce charges for care services in individual cases.
  - (b) To disregard the value of a property in a financial assessment.
10. The provision of a Welfare Rights Service and the commissioning of Advice Services, including working with and supporting the Advice in County Durham Partnership.
11. To apply to the Court of Protection for Deputyship or single orders related to finance and property and to act as dually appointed Financial Appointee or Deputee for those individuals who lack mental capacity and are subject to such orders.
- 11.12. Establishing and amending a charging policy for those whom the Deputy and Appointeeship Team act as an appointee.
- 12.13. Completion of statutory submissions to Government of the council tax and business rates returns.
- 13.14. To establish and amend/update the Council Tax Exemption for Care Leavers Policy and to administer applications under this policy.

- ~~44-15.~~ To establish and amend/update the Council's Discretionary Rate Relief Policies and to administer applications under these schemes.
- ~~45-16.~~ To establish and amend the Council Tax Discretionary Reduction Policy and Business Rates Hardship Relief Policy and administer applications for relief under Section 13A(1)(c) of the Local Government Finance Act 1988.
- ~~46-17.~~ The operation and development of the systems supporting payments and financial support
- ~~47-18.~~ Agreement of remedies to customers in line with the Council's Corporate Complaints Policy

## Corporate Finance and Commercial Services

- ~~48-19.~~ To exercise MTFP, annual budget setting, budgetary control and final accounts functions (Revenue and Capital) referred to the Corporate Director under the Council's Financial Procedure Rules.
- ~~49-20.~~ To arrange all borrowings, financing and investment in line with the Council's Treasury Management Policy Statement.
- ~~20-21.~~ To make appropriate banking arrangements on behalf of the Council.
- ~~21-22.~~ The operation and development of the Council's financial systems.
- ~~22-23.~~ The operation and continuous improvement of the Council's accounting systems.
- ~~24.~~ To authorise the release of funds from contingencies as set out in the Revenue Budget.
- ~~23-25.~~ To set the Council Tax Base at Local Council level and to forecast and manage the Council's Collection Funds, making adjustments to payments to principal precepting bodies as appropriate.
- ~~26.~~ To establish such reserves as required and review them for both adequacy and purpose on a regular basis.
- ~~24-27.~~ To maintain all accounting records in relation to the Pension Fund, including the preparation of the Pension Fund Statement of Accounts and Annual Report.
- ~~25-28.~~ To act as Proper Officer for the purposes of the following provisions of the Local Government Act 1972:
- (a) Section 115(2) (Accountability of Officers);
  - (b) Section 146 (Transfer of Securities on Alteration of Area Etc.)

~~26-29.~~ To write off debts.

~~27-30.~~ To deal with the payment of Coroner's remuneration.

~~28-31.~~ To ensure appropriate financial arrangements across the Council.

~~29-32.~~ To agree the terms of loans permitted under law.

~~30-33.~~ To make a statutory declaration of local authority mortgage interest.

~~31-34.~~ To receive and respond to expressions of interest under Community Right to Challenge, under Part 5, Chapter 2 of the Localism Act 2011.

~~32-35.~~ To liaise with the Schools Forum on School Funding formula allocations and to advise Council on formula changes to ensure compliance with Department for Education guidance and regulations and the proper administration of Dedicated Schools Grant (DSG) allocations, including making applications to the Secretary of State for Education as appropriate for any necessary transfer of funding between the DSG funding blocks.

~~33-36.~~ To ensure appropriate arrangements are in place in respect of the effective administration of pooled DCC and NHS monies included within the Durham Better Care Fund and associated integrated budgets.

## Pensions

~~34-37.~~ In relation to the Pension Fund, to exercise the County Council's function as administering authority relating to the Local Government Pension Scheme including, but not restricted to, the following:

- (a) To ensure that Pension Fund complies with the Local Government Pension Scheme Regulations and all other legislation that governs the administration of the Pension Fund.
- (b) To exercise discretions the Council as administering authority has, under the regulations governing the Local Government Pension;
- (c) To administer the financial affairs of the Pension Fund;
- (d) To agree the write-off of bad debts;
- (e) To take any decision relating to the investment or management of the Pension Fund that cannot reasonably await the next meeting of the Pension Fund Committee.
- (f) To authorise, in cases of urgency, the taking of any action by a Manager of the Pension Fund that is necessary in order to protect the interests of the Fund.



- (g) To maintain all necessary accounts and records in relation to the Pension Fund;
- (h) To ensure that appropriate arrangements for the administration of benefits are in place, including the calculation of and payment of benefits, and collection of contributions;
- (i) To manage the triennial valuation of the Pension Fund including the preparation of membership data for actuarial valuation purposes.
- (j) To ensure appropriate Additional Voluntary Contribution arrangements are in place;
- (k) To exercise the Pension Fund's discretion over the beneficiary of any death grant payable.
- (l) To approve the payment of Dependants' Pensions in accordance with the Local Government Pension Scheme Regulations.
- (m) To maintain the system of internal control.
- (n) To accept for admission into the Pension Fund authorities and bodies, and their employees, in accordance with Local Government Pension Scheme Regulations.
- (o) To [implement and maintain an appeals procedure](#) under the dispute procedure for the Local Government Pension Scheme.
- (p) To set the appropriate investment objectives and the strategic asset allocation taking into consideration the Pension Fund's liabilities as calculated by the Pension Fund's Actuary;
- (q) To monitor and review the investments made by the Fund's appointed investment managers and to review their performance against established benchmarks. To report on the Investment Managers' performance to each meeting of the Pension Fund Committee;
- (r) To manage the Pension Fund's cash flow and allocate funds between investment managers in order to ensure that the Pension Fund's strategic asset allocation is maintained and invest the residual cash balances.
- (s) To manage the cash balances not allocated to Investment Managers in accordance with the Treasury Management Strategy and Policy approved by the Pension Fund Committee;
- (t) To arrange and authorise the provision of appropriate Member training, including the attendance at conferences and other similar pension fund related events by Members of the Pension Fund Committee and the Local Pension Board.

- (u) To prepare and submit the necessary Policy Statements to Pension Fund Committee and to arrange for the implementation and review of those statements, strategies, policies and procedures, as required. These include the Funding Strategy Statement
- (v) To prepare and submit the necessary plans and principles to the Pension Fund Committee and to arrange for the implementation and review of those plans and principles, as required. These include the Pension Fund Annual Report and the Investment Strategy Statement.
- (w) To review the Fund's approach to responsible investment and policy on social, environmental and ethical matters on the exercise of rights, including voting rights;
- (x) To produce as part of the Funding Strategy Statement, an assessment of identified risks in relation to the management of the Pension Fund.
- (y) To authorise sending instructions to and completing contracts, deeds or agreements with Border to Coast Pensions Partnership Limited to facilitate transition of assets to and management of collective investment vehicles and alternative investments within the Border to Coast pooled arrangements.
- (z) To monitor and review the investments made by Border to Coast Pensions Partnership Limited under pooled arrangements and to review performance against established benchmarks. To report on relevant investment performance of Border to Coast to each meeting of the Pension Fund Committee.
- (aa) To provide quarterly reporting to the Local Pension Board in line with the Board's Terms of Reference in order to assist the Board in securing compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme and the effective and efficient governance and administration of the Scheme.

## HR and Employee Services

~~35-38.~~ To implement the Council's decisions in relation to Single Status and Job Evaluation.

~~36-39.~~ To approve the regrading of posts up to and including Head of Service level.

~~37-40.~~ To seek to offer alternative employment to any permanent employee who becomes surplus to the requirements of the Service or whose employment is at risk through reasons of ill health or other incapacity.

~~38-41.~~ To determine applications for the extension of sick pay.

~~39.42.~~ To approve applications for leave of absence in cases not covered by the Council's policies.

~~40.43.~~ To agree variations to the Council's scheme for payments towards removal expenses, lodging allowances and legal fees for new employees.

~~41.44.~~ To approve overtime payments for employees above Grade 8.

~~42.45.~~ To authorise redundancy payments to school staff after consultation with the Head of Corporate Finance and Commercial Services.

~~43.46.~~ To decide, taking into account the opinion of an independent registered medical practitioner, whether under the Local Government Pension Scheme Regulations, a member is eligible for an ill health pension and if eligible, what level of ill health pension the scheme member should be awarded.

~~44.47.~~ To exercise discretions the Council as an employer has, under the regulations governing the Local Government Pension.

~~45.48.~~ To negotiate and agree local agreements changing staff terms and conditions of employment.

~~46.49.~~ To formulate and implement policies relating to employed staff.

~~47.50.~~ The operation and development of HR and Payroll systems.

## **Procurement Sales and Business Services**

~~48.51.~~ To exercise the contractual approval functions referred to the Corporate Director under the Council's Contract Procedure Rules.

~~49.52.~~ To ensure appropriate contractual arrangements across the Council in relation to the receiving of goods, works and services.

~~50.53.~~ To ensure appropriate procurement arrangements are in place in respect of pooled DCC and NHS (or other Partner(s) or Bodies) monies held by DCC on behalf of those named bodies or partners.

~~51.54.~~ Approve variations as set out in the Contract Procedure Rules or elsewhere in this Constitution.

~~52.55.~~ Authorise the collection of income from commercial activities.

~~53.56.~~ Authorise the use of professional services via the approved neutral vendor model delivery strategy

## **Internal Audit, Fraud, Risk and Governance**

~~54.57.~~ To maintain an effective internal audit service.

~~55-58.~~ To act as lead officer for the Audit Committee.

~~56-59.~~ To maintain an effective corporate fraud service.

~~57-60.~~ To act as the Risk Management Officer Champion and ensure appropriate risk management arrangements are in place across the Council.

~~58-61.~~ To act as lead officer for maintaining effective corporate governance arrangements and the preparation of the Annual Governance Statement.

## Digital Services

~~59-62.~~ Taking all operational decisions necessary to secure the provision of digital and ICT services and/or discharge of statutory functions, including the power to enter into contracts, in accordance with the approved policies and Financial Procedure Rules including, but not restricted to the following:

- (a) Maintenance and review of an appropriate IT and Digital Service, including a council-wide strategy and support for all business systems.
- (b) Development, maintenance, and assurance of all internal and external IT solutions/systems.
- (c) Management of the Council's resources and assets, systems, digital and information technology and maintenance and ongoing delivery of Operational ICT.
- (d) The governance/assurance of technical delivery and strategy pertaining to Cyber Security, Smart Place and Digital Place agendas, including Digital Inclusion.
- (e) Maintain the delivery of Change Services; Solution Architecture & Design ensuring the ongoing delivery of Digital Services to citizens, the council, and communities.

## Legal and Democratic Services

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

~~60-63.~~ To act as Proper Officer for the purposes of the Local Government Acts 1972 and 2000 and all Regulations made there under other than those Proper Officer functions delegated to the Corporate Director of Resources in connection with the administration of the Council's financial affairs. This delegation shall not derogate from the general delegation under Table 1 paragraph 8.

~~61-64.~~ To carry out the Proper Officer functions relating to the freedom of the City under the Durham City Council Act 1985.

~~62-65.~~ To act as Proper Officer for the Registration of Births, Deaths and Marriages Service pursuant to Schedule 29 paragraph 41 of the Local Government Act 1972 including administration of the arrangements for the licensing of premises under the Marriage Act and the appointment of staff.

~~63-66.~~ To approve premises for the solemnization of marriages and the registration of civil partnerships

~~64-67.~~ To amend the Constitution where necessary to reflect changes in the law or decisions of council bodies or to correct inaccuracies.

- (a) To prepare, negotiate and agree all legal documentation in relation to all land and property in the Council's ownership or for the acquisition of land and property by the Council.
- (b) To prepare, negotiate and agree all legal documentation other than those contained in sub-paragraph (a) relating to or affecting the functions of the Council.
- (c) To sign or attest the Council's seal in all legal documents referred to in sub-paragraphs (a) and (b) and all other legal documentation intended to give effect to decisions of the Council.
- (d) To sign or attest the Council's seal to all documents referred to in sub-paragraph (a).

~~65-68.~~ To prepare, negotiate and agree all legal documentation in relation to all land and property held by the Council as a trustee.

~~66-69.~~ To sign any notice, demand or other document on behalf of the Council in connection with any actual or contemplated legal or enforcement proceedings.

~~67-70.~~ Generally, to institute, defend and conduct any legal proceedings relating to the Council's functions or affecting the property, rights or interests of the Council.

~~68-71.~~ To commission external legal advice as required.

~~69-72.~~ To authorise named officers to appear on behalf of the Council in legal proceedings in the Magistrates' Court pursuant to Section 223 Local Government Act 1972.

~~70-73.~~ To settle any action in any court or tribunal in which the Council is a party or where legal proceedings are indicated providing that any settlement exceeding £50,000 will be subject to prior consultation first with the Corporate Director of Resources as s151 Officer and then with the Leader or Deputy Leader of the Council except in cases of urgency where the settlement is made on the advice of Counsel.

74. To settle claims from staff for damage to personal property in accordance with the Council's policies.

75. In relation to the Pension Fund, to exercise the County Council's function as administering authority relating to the Local Government Pension Scheme in the following way:

74-a. To deal with stage 2 appeals under the dispute procedure for the Local Government Pension Scheme.

~~72-76.~~ In consultation with the Chair of the Corporate Overview and Scrutiny Management Board, to make payments or provide other benefits in cases of maladministration in accordance with Section 92 of the Local Government Act 2000 (as amended).

~~73-77.~~ To:

- i. appoint Members as proxies to attend and vote at shareholders meetings of any company of which the Council is a shareholder and
- ii. undertake the role of company secretary in any company for which the Council provides secretarial or administrative services.

~~74-78.~~ In consultation with the Chief Executive, to make appointments of Members to local and other outside bodies which are not the subject of report to the Council or the Executive, in consultation with the respective political group leaders.

~~75-79.~~ To appoint Review Boards under Regulations under Section 34(4) (Determination of Claims and Reviews) of the Social Security Act 1998.

~~76-80.~~ To make arrangements in relation to appeals against the exclusion of pupils from maintained schools.

~~77-81.~~ To make arrangements pursuant to Sections 94(1), (1A) and (4) of the Schools Standards and Framework Act 1998 (Admission Appeals).

~~78-82.~~ To make arrangements pursuant to Section 95(2) of the Schools Standards and Framework Act 1998 (Children to whom Section 87 applies; Appeals by Governing Bodies).

~~79-83.~~ In consultation with the Corporate Director for Neighbourhoods and Climate Change and the Chair and Vice-Chair of the Statutory Licensing Committee or General Licensing and Registration Committee as appropriate, to determine that a particular application shall be considered by the Statutory Licensing Committee or the General Licensing and Registration Committee rather than a Sub-Committee.

~~80-84.~~ To consider and respond to representations made by members of the public in relation to a decision to hold a meeting or part of that meeting in private.

~~81-85~~. To discharge the Council's functions in relation to voluntary registrations of village greens as set out in section 15(8) Commons Act 2006.

~~82-86~~. To discharge the Council's functions set out in Part 1 of the Commons Act 2006 and the Commons Registration Act 1965 with the exception of determinations under section 15(1) of the Commons Act 2006.

~~83-87~~. To appoint an inspector to hold an inquiry into applications to register land as town or village green where appropriate.

~~84-88~~. To appoint Assistant Coroners in accordance with the provisions of the Coroners and Justice Act 2009

~~85-89~~. To deal with the payment of Coroner's expenses.

~~86-90~~. To discharge the Council's functions in relation to Local Land Charges.

~~87-91~~. To oversee the management of the Council's Overview and Scrutiny functions.

~~88-92~~. To coordinate the Member Training and Development Programme including:

- i. management of the approved Member Training and Development Budget; and
- ii. authorisation of Member attendance at conferences, seminars and other training and development events in consultation with the Leader.

~~89-93~~. In consultation with the Chair of the Standards Committee, to approve any temporary appointment of an independent person to discharge the functions set out in section 28(7) of the Localism Act 2011 where the position is vacant or an existing appointee is unable to act.

~~90-94~~. To approve officer severance payments of less than £20,000.

~~91-95~~. To authorise expenditure within the approved budget for civic hospitality.

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## Appendix 10

### Part 4A: Council Procedure Rules

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## Council Procedure Rules

### 1. Annual Meeting of the Council

#### 1.1 Timing

- i. In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May. This is subject to the exception shown at 1.1(b).
- ii. ~~In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 the requirement to hold an annual meeting will be disregarded in the year of 2020/2021 where no annual meeting will take place prior to 7<sup>th</sup> May 2021 unless where the meeting is:~~
  - ~~(a) called by the Chair of the Council in consultation with the Head of Paid Services and Head of Legal and Democratic Services; or~~
  - ~~(b) following a resolution calling for an Annual meeting being passed at an ordinary or extraordinary meeting of the Council.~~

#### 1.2 Business

The annual meeting will:

- (a) elect a person to preside if the Chair of the Council is not present;
- (b) elect the Chair of the Council;
- (c) elect the Vice-Chair of the Council;
- (d) approve the minutes of the last meeting;
- (e) receive any announcements from the Chair and / or the Head of Paid Service;
- (f) subject to Article ~~56~~.03, elect the Leader in the year of an ordinary election of councillors;

- (g) appoint the Overview and Scrutiny Committees, the Standards Committee and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Articles 4 and 6 of this Constitution);
- (h) agree the scheme of delegations or such part of it as the Constitution determines it is for the Council to agree (as set out in Article 4 of this Constitution);
- (i) approve a programme of ordinary meetings of the Council for the year; and
- (j) consider any business set out in the notice convening the meeting.

### **1.3 Selection of Councillors on Committees and Outside Bodies**

At the annual meeting, the Council meeting will:

- (a) decide which committees and sub-committees to establish for the municipal year;
- (b) decide the size and terms of reference for those committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules;
- (d) make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive-; and
- (e) appoint the Chairmen and Vice-Chairmen of Committees.

## **2. Ordinary Meetings**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting except where 1.1(ii) applies. Where 1.1(ii) applies the programme will be decided by the Chair of the Council in consultation with the Head of Paid Service and Head of Legal and Democratic Services.

The order of business at ordinary meetings will be set out as below. At the ordinary meeting of council where there is consideration of the annual budget and setting of the council tax (usually held in February) agenda items (f) and (m) will not be included on the agenda, unless in relation to agenda item (m) there are exceptional circumstances and have the approval of the Chair of the Council, and Head of Legal and Democratic Services.

- (a) shall not, without the consent of the Council, exceed 2.5 hours in duration;
- (b) elect a person to preside if the Chair and Vice-Chair are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Chair;
- (e) receive a report from the Leader and receive questions and answers on the report;
- (f) receive a brief presentation on the work of an AAP;
- (g) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chair are relevant to the Council's functions;
- (h) receive petitions from the public in relation to matters which in the opinion of the Chair are relevant to the Council's functions;
- (i) receive a report from the Executive and receive questions and answers on the report;
- (j) receive reports from the Council's committees and receive questions and answers on those reports;
- (k) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (l) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework and reports of the Corporate Overview and Scrutiny Management Board;
- (m) consider motions; and
- (n) deal with questions from Members in accordance with Rule 9.

### **3. Extraordinary Meetings**

#### **3.1 Calling extraordinary meetings**

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

- (a) the Council by resolution;
- (b) the Chair of the Council;
- (c) any 5 Members of the Council if they have signed a requisition presented to the Chair of the Council and they have refused to call a meeting or have failed to call a meeting within seven days of the presentation of the requisition.

### **3.2 Business**

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

## **4. Time and Place of Meetings**

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

The place where a remote meeting is held, or to be held could include reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers.

## **5. Notice of and Summons to Meetings**

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

Where meetings take place remotely, notice will be given by the Head of Legal and Democratic Services of the time of the meeting, and the agenda, together with details of how to join the meeting which will be available on the Council website. This will be in accordance with the Access to Information Rules.

## **5A Remote Attendance by Members of the Public**

- (a) A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:
- i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;
  - ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
  - iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- (b) A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in 5A(a) above are not met. In such circumstance the Chair may, as he or she deems appropriate:
- i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in 5A(a) above to be re-established;
  - ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or
  - iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.
- (c) If the Chair is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chair shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 6. Chair of Meeting

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

references to the Chair also include the Chair of committees and sub-committees.

## 7. Quorum

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

### 7A Members in Remote Attendance

- (a) A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:
- i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance.
  - ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
  - iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- (b) A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in 7.2(a) above are not met. In such circumstance the Chair may, as they deem appropriate:
- i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in 7.2(a) to be re-established;
  - ii) count the number of Members in attendance for the purposes of the quorum; or
  - iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.

## 8. Petitions from the Public

### 8.1 Notice of Petition

If a citizen wishes to present a petition to a Council meeting, notice must be given at least 10 working days before the meeting.

### 8.2 Presentation of Petitions

The petition organiser will be allowed 5 minutes to present the petition at the meeting. Only one person may speak to present a petition.

### 8.3 Number of Petitions

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

### 8.4 Scope of Petitions

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

- (a) Does not qualify under the scheme;
- (b) It is vexatious, abusive or otherwise inappropriate;
- (c) It is a petition qualifying under another enactment;
- (d) It is excluded by order e.g.:
  - (i) It relates to a planning decision;
  - (ii) It relates to a licensing decision;
  - (iii) It relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.

## 9. Questions

### By the Public

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



## 9.2 Time Allowed for questions

The time allowed for considering questions under this Rule shall not, without the consent of the Council, exceed 10 minutes.

## 9.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to [publicquestions@durham.gov.uk](mailto:publicquestions@durham.gov.uk) no later than midday 3 working days before the day of the meeting. Each question must give the name and address of the questioner.

## 9.4 Number of questions

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

## 9.5 Scope of questions

The Head of Legal and Democratic Services may reject a question, whether submitted by a Member of the Council or a member of the public, if it:

- (a) is not about a matter for which the Council has a responsibility or which affects the County;
- (b) is defamatory, frivolous or offensive;
- (c) is vexatious or abusive;
- (d) is substantially the same or similar to a question which has been put at a meeting of the Council in the past six months;
- (e) requires the disclosure of confidential or exempt information;
- (f) is lengthy, or a speech;
- (g) is an expression of opinion;
- (h) relates to a question of fact;
- (i) relates to a matter which is of purely personal concern to an individual or family members;
- (j) relates to court action or threatened court action that the person or group are taking against the Council;
- (k) is a request for compensation;

- (l) contains a statement which is untrue;
- (m) is an unintelligible question.

## By Members

### 9.6 On reports of the Executive or committees

Subject to 9.9 and 9.11, a Member of the Council may ask the Leader or the Chair of a committee any question on a report from the Executive or Committee.

### 9.7 Questions on notice at full Council

Subject to Rule 9.9, a Member of the Council may ask:

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

### 9.8 Questions on notice at Committees and Sub-Committees

Subject to Rule 9.9, a member of a committee or sub-committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affects the County and which falls within the terms of reference of that committee or sub-committee.

### 9.9 Notice of questions

A member may ask a question under Rule 9.6, 9.7 or 9.8 if either:

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

## 9.10 One Question per Member

A Member may ask only one question under Rule 9.6, 9.7 or 9.8 except with the consent of the Chair of the Council, committee or sub-committee.

## 9.11 Supplementary question

A Member asking a question under Rule 9.6, 9.7 or 9.8 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

## 9.12 Length of Speeches

Neither a Member asking a question under Rule 9.7 or 9.8 nor a Member answering such a question may speak for longer than three minutes each unless the Chair consents to a longer period.

## 9.13 Time Allowed for Member Questions at Council Meetings

- (a) The time allowed for consideration of questions submitted under Rule 9.7 or 9.8 shall not, without the consent of the Council, exceed 30 minutes;
- (b) At the conclusion of the answer to the question under consideration at the expiry of 30 minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the Chair shall conclude the meeting.
- (c) Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

## Generally

## 9.14 Record of questions

The Head of Legal and Democratic Services will immediately send a copy of any question received to the Member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be available to all Members and the public attending the meeting. Copies of the questions asked at the meeting and the responses will also be available on the Council's website with the agenda for the relevant meeting.

## 9.15 Order of questions

- (a) Questions from the public received in accordance with the provisions of Rule 9.3 will be asked in the order notice of them was received, except that the Chair may group together similar questions.
- (b) Questions from Members received in accordance with Rule 9.7 or 9.8 will be asked in the order determined by the Chair of the Council, committee or sub-committee.

### 9.16 Asking the question at the meeting

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

### 9.17 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.
- (d) If when a question is put, it appears that it is beyond the remit of the Member to which it is directed, the Chair may invite the relevant Member to also provide a brief response.

### 9.18 Written answers

- (a) Any question from the public which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer. Copies of the questions and responses will be available on the Council's website with the agenda for the relevant meeting.
- (b) Where a reply cannot conveniently be given orally to a question from a Area Action Partnership or Member, a written answer will be circulated later to the questioner.

## 9.19 Reference of question to the Executive or a committee

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

## 10. Motions on Notice

### 10.1 Application of Rules

Rules 10.2 to 10.7 do not apply to motions on notice under rule 10.8.

### 10.2 Notice

Except for motions which can be moved without notice under Rule 11, written notice of every motion, must be delivered by electronic mail sent to [motions@durham.gov.uk](mailto:motions@durham.gov.uk) not later than 5.00 p.m. on the seventh working day before the Council meeting at which it is to be considered.

### 10.3 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order determined by the Chair.

### 10.4 Scope

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

### 10.5 Motion to remove the Leader

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

## 10.6 One Motion per Member

No Member may give notice of more than one motion for any Council meeting, except with the consent of the Chair.

## 10.7 Time Allowed for Motions

- (a) The time allowed for consideration of motions submitted under this Rule shall not, without the consent of the Council, exceed 30 minutes.
- (b) 15 minutes before the expiry of the 30-minute overall time limit for consideration of motions (or such longer period to which Council has consented), the Chair will advise the meeting that:
  - (i) There is 15 minutes remaining for motions;
  - (ii) That this will be the cut-off and no further registrations to speak will be accepted;
  - (iii) The number of registered speakers remaining; and
  - (iv) That those already registered to speak will be called in order until expiry of the time limit.
- (c) At the conclusion of the speech being delivered at the expiry of 30 minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such motion, the Chair shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:
  - (i) if the speech to be concluded is a speech proposing a motion, the Chair shall allow the motion to be formally seconded (without comment);
  - (ii) if the speech to be concluded is a speech moving an amendment, the Chair shall allow the amendment to be formally seconded (without comment);
  - (iii) otherwise, the Chair shall allow the mover of the motion to exercise their right of reply.
- (d) Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

## 10.8 Motions to Amend Budget and Policy Framework

Written notice of a motion to move an amendment of the Executive's proposals for the Council's budget and policy framework, subject to the Budget and Policy Framework Procedure Rules, must be delivered to the Head of Legal and Democratic Services not later than midday 3 working days before the Council meeting at which it is to be considered. Motions received after that deadline will only be considered in exceptional circumstances and with the approval of the Chair, section 151 officer and Head of Legal and Democratic Services.

## 10.9 Motions relating to the Executive Functions

A motion on any matter in respect of which the Executive has decision-making powers shall only be to refer the matter to the Executive for consideration.

## 11. Motions Without Notice

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) to suspend a particular Council procedure rule;

- (m) to exclude the public and press in accordance with the Access to Information Rules;
- (n) to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4; and
- (o) to give the consent of the Council where its consent is required by this Constitution.

## **12. Rules of Debate**

### **12.1 No speeches until motion seconded**

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

### **12.2 Requirement to submit motions in writing**

Unless notice of the motion has already been given, the Chair will require it to be written down and handed to them before it is discussed.

### **12.3 Secunder's speech**

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

### **12.4 Questions on Motions**

Once a motion has been moved and seconded, before moving on to speeches, the Chair will ask members if they have any questions on the Motion. A member who asks or answers a question on the motion will retain the right to make a speech on the motion.

### **12.5 Content and length of speeches**

- (a) Speeches must be directed to the motion under discussion or to a personal explanation or point of order.
- (b) A speech by the mover of a motion may not exceed five minutes without the consent of the Chair, save where two items are being considered together, in which case paragraph (e) will apply.
- (c) Subject to paragraph (d) and (e) below, speeches by other Members, including those members speaking during their right to reply, may not exceed three minutes without the consent of the Chair.



- (d) When the Council's annual budget is under discussion, the Leader of each political group on the Council may speak for up to five minutes or such longer period as the Chair shall allow.
- (e) When two agenda items are being considered together, the proposer and seconder of the motion, and the Leaders of each political group on the Council, will be entitled to speak for double the usual allotted time under (b), (c) and (d) above.

## 12.6 When a Member may speak again

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

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

## 12.7 Amendments to motions

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

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

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

## 12.8 Alteration of motion

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

## 12.9 Withdrawal of motion

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

## 12.10 Right of reply

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

## 12.11 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4.

## 12.12 Closure motions

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

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

### **12.13 Point of order**

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

### **12.14 Personal explanation**

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

## **13. Previous Decisions and Motions**

### **13.1 Motion to rescind a previous decision**

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

### **13.2 Motion similar to one previously rejected**

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

## **14. Voting**

### **14.1 Majority**

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

## 14.2 Chair's casting vote

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

## 14.3 Method of Voting

Unless a recorded vote is demanded under Rule 14.4 the Chair will take the vote:

- (a) by a show of hands or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting;
- (b) where an electronic voting system is not working correctly or unavailable the Chair will take the vote by roll call.

## 14.4 Recorded vote

If ten members present at the meeting of full Council (or 5 members present at any other meetings of the authority to which these rules apply) request it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

## 14.5 Right to require individual vote to be recorded

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

## 14.6 Voting at budget decision meeting

Immediately after any vote is taken at a budget decision meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the members who cast a vote for the decision or against the decision or who abstained from voting.

**NOTE -** Budget decision means calculation of the Council tax requirement, calculation of the basic amount of Council tax, additional calculations where special items relate to part only of the area, calculation of Council tax for different variation bands, substitute calculations and calculation of the amount payable by billing authorities.

## 14.7 Voting on appointments

If there are more than two people nominated for any appointment and there is not a clear majority of votes in favour of one person the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. Nominations will be voted on without debate.

## 15. Minutes

### 15.1 Signing the minutes

The Chair will sign the minutes of the proceedings at the next suitable meeting, an electronic signature can be applied as a valid signature in accordance with the Electronic Communications Act 2000. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

### 15.2 No requirement to sign minutes of previous meeting at extraordinary meeting

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

### 15.3 Form of minutes

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

## 16. Record of Attendance

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance. Where the meeting is held remotely the attendance of members will be recorded by the committee services officer and included in the minutes of the meeting.

## 17. Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 19 (Disturbance by Public).

## **18. Members' Conduct**

### **18.1 Speaking at meetings**

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

### **18.2 Chair speaking**

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

### **18.3 Member not to be heard further**

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

### **18.4 Member to leave the meeting**

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

### **18.5 General disturbance**

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they consider necessary.

## **19. Disturbance by Public**

### **19.1 Removal of member of the public**

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

## 19.2 Clearance of part of meeting room

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

## 20. Appointment of Substitute Members on Council Bodies

- 20.1 The substitution rules will not apply to meetings of the Executive, the Standards Committee or the Audit Committee.
- 20.2 Subject to any other restrictions elsewhere in the Constitution, any Member of the Council will be permitted to act as a substitute on a Council Body.
- 20.3 The Proper Officer may consider a request from a Member of a Council Body to appoint a substitute Member, providing that substitute Member is from the same political group.
- 20.4 In order to be eligible to sit as substitutes on regulatory or administrative committees or panels or staff appointments or disciplinary bodies established by the Council, Members must have received formal training in relevant procedures and the law.
- 20.5 Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.
- 20.6 Substitute Members may attend meetings in that capacity only:
  - (a) to take the place of the ordinary Member for whom they are designated substitute.
  - (b) where the ordinary Member will be absent for the whole of the meeting;
  - (c) where the ordinary Member has notified the Head of Legal and Democratic Services or the Democratic Services Manager of the intended substitution:
    - i. at least one hour before the start of the relevant meeting unless the meeting is held remotely.



- ii. by 12 noon one working day before the start of the relevant meeting where the meeting is held remotely.

## **21. Suspension and Amendment of Council Procedure Rules**

### **21.1 Suspension**

All of these Council Rules of Procedure except Rule 10.5(c), 14.5 and 15.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting. Rule 10.5(c) can only be suspended by motion on notice and the motion must have the support of at least two thirds of those members present and voting.

### **21.2 Amendment**

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

## **22. Reasonable Adjustments**

The Chair may, from time to time, make minor changes to the application of these rules to provide reasonable adjustments for disabled persons.

## **23. Application to Committees and Sub-Committees**

- (a) All of the Council Rules of Procedure apply to meetings of full Council.
- (b) None of the rules apply to meetings of the Executive.
- (c) Only Rules 4-7 and 13 – 22 (but not Rule 18.1) apply to meetings of committees and sub-committees.
- (d) Rule 7 does not apply to meetings of the Statutory Licensing Sub-Committees or the Area Licensing Sub-Committees or the Appeals Sub-Committees for which the quorum is as specified in Article 4 of this Constitution.
- (e) Rule 14.4 does not apply to any committee or sub-committee with a membership of less than 5 members.

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## Appendix 11

### Part 4D: Executive Procedure Rules

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## Executive Procedure Rules

### 1. How does the Executive operate?

#### 1.1 Who may make executive decisions?

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

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

#### 1.2 Delegation by the Leader

Following the annual meeting of the Council, the Head of Legal and Democratic Services, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in Article 56 of this Constitution. This will contain the following information about executive functions in relation to the coming year:

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

### 1.3 Sub-delegation of executive functions

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

### 1.4 The Council's scheme of delegation and executive functions

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

### 1.5 Conflicts of Interest

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

## 1.6 Executive meetings – when and where?

The frequency and timing of meetings of the Executive will be determined by the Leader.

The Executive will meet at the Council's main offices or another location to be agreed by the Leader which includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers, known as remote meetings.

## 1.7 Public meetings of the Executive?

The Executive will hold its meetings in public, except in the circumstances set out in paragraphs (a) to (c) of Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. Briefly, these circumstances cover:

- (a) confidential information;
- (b) exempt information;
- (c) disorderly conduct.

## 1.8 Private meetings of the Executive

If the Executive is to hold a meeting in private and this means a meeting or part of a meeting during which the public are excluded, then at least 28 clear days before the private meeting it must make available and publish on the Council website a notice of intention to hold the meeting in private.

The notice must include a statement of reasons for the meeting to be held in private.

Following that, at least 5 clear days before a private meeting, the Council must make available and publish on the website a further notice of its intention to hold the meeting in private.

The notice must include a statement of the reasons for the meeting to be held in private, details of any representations received about why the meeting should be open to the public and a statement of the Council's response to any such representation.

## 1.9 Urgent Private Meeting of the Executive

Where the date by which a private meeting must be held makes compliance with Rule 1.8 impracticable, the meeting may only be held in private where the Executive has agreement from:-

- (a) the Chair of the Corporate Overview and Scrutiny Management Board;  
or
- (b) if they are unable to act, the Chair of the Council; or
- (c) where there is no chair, the vice-chair of the Council

that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after the Executive has obtained agreement to hold an urgent private meeting it must make available and publish on the Council website a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

### 1.10 Quorum

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

### 1.11 How are decisions to be taken by the Executive?

- (a) Executive decisions made by the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.
- (c) Immediately after any vote is taken at a budget decision meeting of the Executive there must be recorded in the minutes of the proceedings of that meeting the names of the members who cast a vote for the decision or against the decision or who abstained from voting.

**NOTE 1** - Budget decision means calculation of the Council tax requirement, calculation of the basic amount of Council tax, additional calculations where special items relate to part only of the area, calculation of Council tax for different variation bands, substitute calculations and calculation of the amount payable by billing authorities.

## **2. How are Executive Meetings Conducted?**

### **2.1 Who presides?**

The Leader will preside at any meeting of the Executive or its committees at which they are present. In their absence, the Deputy Leader will preside.

### **2.2 Who may attend?**

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

### **2.3 What business?**

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

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

### **2.4 Consultation**

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



## 2.5 Who can put items on the executive agenda?

- (a) The Leader will decide upon the schedule for meetings of the Executive. The Leader may put any matter on the agenda of any Executive meeting whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter.
- (b) Any member of the Executive may require the Head of Legal and Democratic Services to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration.
- (c) The Head of Paid Service, the Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive meeting and may require that such a meeting be convened in pursuance of their statutory duties.

## 2.6 Questions by the Public

### *On matters of concern or interest*

- 2.6.1 Members of the public may ask questions of Members of the Executive on matters of concern or interest, during the first formal item of business at every ordinary cabinet meeting.

### *On reports to be considered by the Executive*

- 2.6.2 Members of the public may ask questions of Members of the Executive on reports that are to be considered by the Executive which are listed on the agenda for that meeting.

### *Notice of questions*

- 2.6.3 A member of the public may ask a question under rules 2.6.1, and 2.6.2 if notice has been given by delivering it in writing or by electronic mail to the Head of Legal and Democratic Services no later than midday 3 working days before the day of the meeting. Each question must give the name and address of the questioner. Under rule 2.6.1 questions can be asked informally at the meeting if the Leader permits, where the meeting is held remotely this provision is suspended.

### *Order of questions*

- 2.6.4 Questions in relation to rule 2.6.1 will be asked in the order notice of them was received, and for those relating to rule 2.6.2 at the time that the agenda item was being considered. The Leader may group together similar questions.

## **2.7 Questions by Members**

### *On reports to be considered by the Executive*

- 2.7.1 A member of the Council may wish to ask questions of Members of the Executive on reports that are to be considered by the Executive which are listed on the agenda for that meeting. There is no general right for non-Cabinet members to address Cabinet at their meetings, however if the decision to be made affects their division, or they have some other relevant consideration this may be accepted subject to rule 2.7.2

### *Notice of questions*

- 2.7.2 A member wishing to ask a question must give notice by delivering the question in writing or by electronic mail to [cabinetquestions@durham.gov.uk](mailto:cabinetquestions@durham.gov.uk) for the attention of the Head of Legal and Democratic Services at no later than noon 3 working days before the day of the meeting, and must state the capacity in which they are asking the question (e.g Ward Councillor; Committee Member, Shadow Portfolio Holder, etc). . The Head of Legal and Democratic Services in consultation with the Leader of the Council will determine whether the question can be asked.

### *Order of questions*

- 2.7.3 Questions will be asked in the order notice of them was received, and at the time that the agenda item was being considered.

### *Asking the question at the meeting*

- 2.7.4 The Leader will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, a written reply will be given after the meeting. A restriction of 5 minutes per question will be applied, except at the discretion of the Leader.

## **2.8 Questions**

### *Scope of questions*

- 2.8.1 The Head of Legal and Democratic Services may reject a question from the public if it:

- (a) does not relate to a matter of concern or interest; or

The Head of Legal and Democratic Services may also reject a question from the public or a Member if it:

- (b) Subject to 2.8.1(a) above, is not about a matter for which the Executive is going to consider an item on the agenda for the meeting;
- (c) is defamatory, frivolous or offensive;
- (d) is vexatious or abusive;
- (e) is substantially the same or similar to a question which has been put at a meeting of the Executive in the past six months;
- (f) requires the disclosure of confidential or exempt information;
- (g) is lengthy, or a speech;
- (h) relates to a matter which is of purely personal concern to an individual or family members;
- (i) relates to court action or threatened court action that the person or group are taking against the Council;
- (j) is a request for compensation;
- (k) contains a statement which is untrue;
- (l) is an unintelligible question.

### ***Record of questions***

- 2.8.2 The Head of Legal and Democratic Services will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

The questions asked at the meeting and the responses will be referred to in the minutes of the meeting.

### ***Written answers***

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

### ***Reference of question to the Executive***

- 2.8.4 Unless the Leader decides otherwise, no discussion will take place on any question.

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## Appendix 12

### Part 4F - Financial Procedure Rules

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## 1. INTRODUCTION

### 1.1 What are Financial Procedure Rules?

- 1.1.1 Financial Procedures provide the framework for managing the Council's financial affairs. The Financial Procedures are supported by more detailed Financial Management Standards which set out how the Procedures will be implemented. These are listed in Appendix A.
- 1.1.2 The Procedures identify the financial responsibilities of the full Council, the Cabinet, the Audit Committee and Officers.
- 1.1.3 To avoid the need for regular amendments due to changes in post titles, generic terms are included for officers as follows:
- i. The term, "Chief Finance Officer," refers to the Section 151 Officer who is currently the Corporate Director Resources.
  - ii. The term, "Chief Officers", refers to the Council's Chief Executive, the Corporate Directors.
  - iii. The term, "Monitoring Officer", is currently the Head of Legal and Democratic Services.
  - iv. The term, "Chief Internal Auditor", refers to the Chief of Internal Auditor and Corporate Fraud Manager.

### 1.2 Why are they important?

- 1.2.1 To conduct its business effectively, the Council needs to ensure that sound financial management arrangements are in place and that they are strictly adhered to in practice. Part of this process is the establishment of Financial Procedures which set out the financial responsibilities of the Council. These Procedures have been devised as a control to help the Council manage its financial matters properly in compliance with all necessary requirements.
- 1.2.2 Good, sound financial management is a key element of the Council's Corporate Governance framework which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.
- 1.2.3 Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.
- 1.2.4 Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.

- 1.2.5 Financial Procedures should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in this Constitution.

### **1.3 Who do Financial Procedures apply to?**

- 1.3.1 Financial Procedures apply to every member and officer of the Council and anyone acting on its behalf. Members and officers have a general responsibility for taking reasonable action to provide for the security and use of the resources and assets under their control, and for ensuring that the use of such resources and assets is legal, is consistent with Council policies and priorities, is properly authorised, provides value for money and achieves best value.
- 1.3.2 Separate financial procedures have been incorporated into the Council's Scheme for Financing of Schools and relate to those matters where decisions have been delegated to school governing bodies.
- 1.3.3. These Financial Procedures shall apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.
- 1.3.4 Failure to observe Financial Procedures may result in action under the Council's disciplinary procedures.

### **1.4 Who is responsible for ensuring that they are applied?**

- 1.4.1 Chief Officers and Heads of Service are ultimately responsible to the Council for ensuring that Financial Procedures are applied and observed by their staff and contractors providing services on the Council's behalf and for reporting to the Chief Finance Officer any known or suspected breaches of the procedures.
- 1.4.2 The Chief Finance Officer is responsible for maintaining a continuous review of the Financial Procedures and submitting any additions or changes necessary to the Council for approval. The Chief Finance Officer is also responsible for reporting (under Local Government Finance Act 1988 (S114)) where appropriate, breaches of the Financial Procedures to the Council and / or to the Executive Members.
- 1.4.3 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedures which Members, Chief Officers and others acting on behalf of the Council are required to follow.
- 1.4.4 Where any Chief Officer considers that complying with Financial Procedures in a particular situation might conflict with the achievement



of value for money or the best interests of the Council, they shall raise the issue with the Chief Finance Officer who will, if they consider it necessary and appropriate, seek formal approval from the Council for a specific waiver of the procedures, or an amendment to the procedures themselves.

## **2. FINANCIAL MANAGEMENT – GENERAL ROLES AND RESPONSIBILITIES**

### **2.1 The Role of the Full Council**

2.1.1. The Council has a duty towards its Council Tax payers with regard to financial decisions and their consequences. The full Council is responsible for approving the Budget and Policy Framework within which the Cabinet operates having regard to the Chief Financial Officer's comments in their report under Section 25 of the Local Government Act 2003. The budget setting process includes the approval of Prudential Indicators as required by the CIPFA Prudential Code for Capital Finance in Local Authorities. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The role of the Council is set out in this Constitution.

### **2.2 The Role of the Cabinet**

2.2.1 The Cabinet (as the Council's Executive) is responsible for proposing the Budget and Policy Framework to full Council, and for discharging executive functions in accordance with the Budget and Policy Framework. The role of the Cabinet is set out in this Constitution.

### **2.3 The Role of the Audit Committee**

2.3.1 The Audit Committee approves the final accounts and is an advisory committee to both the Council and the Executive on audit and governance issues in order to provide independent and effective assurance over the adequacy of the Council's financial management and reporting, [treasury management strategy](#), risk management framework, and other processes required to achieve the council's corporate and service objectives.

### **2.4 The Role of Overview and Scrutiny Committees**

2.4.1 The overview and Scrutiny Committees are responsible for scrutiny of decisions of the executive; to hold them to account and make recommendations on policy development and implementation. Scrutiny contributes to policy development and performance improvement

through its review activity and plays an important part in monitoring performance and both revenue and capital expenditure.

## 2.5 The Role of the Chief Finance Officer

2.5.1 The Chief Finance Officer is accountable to the Chief Executive and the Council and has statutory duties that provide overall responsibility for the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. These statutory duties arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Local Government Act 2003
- The Accounts and Audit (England) Regulations 2011
- The Code of Practice on Local Authority Accounting (the Code)

2.5.2 The Chief Finance Officer is the Council's professional adviser on financial matters and is responsible for:

- The proper administration of the Council's financial affairs.
- Maintaining a continuous review of Financial Procedures and submitting any additions or changes as necessary to the full Council for approval.
- Annually reviewing and updating, and monitoring compliance with Financial Management Standards.
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- Providing financial information and advice to the Corporate Management Team, the Cabinet, the Council and the Audit Committee on all aspects of its activity including the presentation of appropriate financial options as necessary.
- Providing relevant financial information to Overview and Scrutiny Committees.
- Providing training for Members and officers on finance issues.
- Determining accounting policies and ensuring that they are applied consistently.
- Determining accounting procedures and records of the Council.
- Reporting, where appropriate, breaches of the Financial Procedures to the Council and/or Cabinet.
- Preparing and monitoring the revenue budget, capital programme and Medium Term Financial Plan.
- Ensuring the provision of an effective Internal Audit Function.

- Ensuring the provision of an effective Treasury Management Function.
- Advising on Rrisk Mmanagement.
- Ensuring the Council complies with the CIPFA Prudential Code for Capital Finance in Local Authorities.
- Ensuring that Council spending plans and council tax calculations, identified in the medium term financial plan, are based upon robust estimates.
- Ensuring that the level of Council reserves is adequate to meet the known financial risks facing the Council over the medium term.
- Ensuring (when required) robust saving plans are in place to meet known financial risks facing the council and enable a balanced budget.
- Ensuring that the annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting (the Code).
- Ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.
- Ensuring that proper professional practices, standards and ethics are adhered to.
- Acting as head of profession in relation to the standards, performance and development of finance staff including the training and professional development of all staff employed in posts designated as requiring a qualified accountant, accounting technician, or auditor, wherever located.
- The appointment of all finance staff and will be consulted on any proposal to create or delete a post requiring such a qualification for appointment.

2.5.3. Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the full Council and to the External Auditors if the Council or one of its officers:

- Has made, or is about to make a decision which involves incurring expenditure which is unlawful.
- Has taken or is about to take, unlawful action which has resulted or would result in a loss or deficiency to the Council.
- Is about to make an unlawful entry in the Council's accounts.

2.5.4 Section 114 of the 1988 Act also requires:

- The Chief Finance Officer to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under section 114 personally.
- The Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal

advice where necessary, to carry out the duties under section 114, as determined by the Chief Finance Officer.

#### 2.5.5 The Chief Finance Officer:

- Is required to approve all financial procedures, records, systems and accounts throughout the Council which are necessary to ensure that the tasks defined in these procedures are properly carried out. The Council will also ensure that the Chief Finance Officer is consulted and given the opportunity to advise upon all financial management arrangements and notes of detailed advice and guidance on financial systems and procedures necessary to ensure a satisfactory standard of accuracy, reliability, probity and regularity.
- Shall be given access to any information as is necessary to comply with their statutory duties and with the requirements and instructions of the Council.
- Shall be entitled to attend and report on financial matters directly to the Council, the Cabinet, and any committees or working groups the Council may establish and to the Corporate Management Team.
- Shall be sent prior notice of all meetings of the Cabinet and all Council bodies together with full agendas and reports and shall have authority to attend all meetings and take part in the discussion if they desire.

## 2.6 The Role of Chief Officers

2.6.1 Chief Officers are each accountable to the Council for the financial management and administration of those services and activities allocated to them in accordance with Council policy.

#### 2.6.2 Chief Officers are responsible for:

- Ensuring that adequate and effective systems of internal control are operated to ensure the accuracy, legitimacy and proper processing of transactions and the management of activities, having regard to advice and guidance from the Chief Financial Officer.
- Ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Financial Officer.
- Consulting with the Chief Finance Officer in seeking approval regarding any matters which may affect the Council's finances materially, before any commitments are incurred.
- Consulting with each other on any issue with corporate financial implications before submitting policy options or recommendations to Members.

- Ensuring that all employees in their Departments are aware of their responsibilities according to the financial regulations and other internal regulatory documents and comply with them.

### 3. FINANCIAL PLANNING

#### 3.1 Strategic Planning

3.1.1 The full Council is responsible for agreeing the Council's Budget and Policy Framework which will be proposed by Cabinet.

3.1.2 The preparation of the medium term financial plan is part of the strategic policy framework of the Council and aims to ensure that the Council's spending plans are prudent, affordable and sustainable, and reflect Council priorities.

3.1.3 The policy framework comprises various plans and strategies, as defined in this Constitution. In terms of financial planning, the key elements are:

- The Council's [P](#)performance [M](#)management framework
- The Council Plan
- The Medium Term Financial Plan (including savings plans)
- The Corporate Asset Management Plan
- The Workforce Development Plan
- The Sustainable Communities Strategy

3.1.4 The full Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Under the Constitution, the Monitoring Officer has a duty to advise whether decisions of the Cabinet are in accordance with the Budget and Policy framework.

3.1.5 Chief Officers are responsible for the preparation and monitoring of service improvement plans within their service areas in accordance with the corporate performance framework determined by the [Assistant Chief Executive/Head of Corporate Affairs](#). Service improvement plans should align with Council values and priorities and be consistent with and based upon the budget allocated by the Council to the service.

#### 3.2 Budget Preparation

3.2.1 The Cabinet, in consultation with the Chief Finance Officer is responsible for determining the general budget strategy and issuing annual guidelines to Members and Chief Officers on:

- Preparing a detailed revenue budget for the following year
- Preparing the Medium Term Financial Plan (4 years)
- Preparing the capital programme
- The timetable for preparing and agreeing the Council's revenue and capital budget

3.2.2 The guidelines will take account of:

- Council priorities as reflected in the Council plan
- Spending pressures
- Savings plans
- What future funding is available
- What level of reserves are available
- The affordability, sustainability and prudence of capital investment plans
- Legal requirements
- Value for money and other relevant government guidelines
- Other internal policy documents
- Cross-cutting issues (where relevant)

3.2.3 The Chief Finance Officer is responsible for developing and maintaining a resource allocation process that ensures the consideration of the full Council's policy framework.

3.2.4 The Chief Finance Officer is responsible for ensuring that a detailed revenue budget is prepared on an annual basis and a general revenue plan on a four yearly basis (Medium Term Financial Plan) for consideration by Cabinet before submission to full Council.

3.2.5 The Chief Finance Officer is responsible for ensuring a capital programme is prepared on an annual basis for consideration by Cabinet before submission to the full Council.

3.2.6 It is the responsibility of the Chief Finance Officer to advise the Cabinet and/or the full Council on the adequacy of the reserves for the Council.

3.2.7 Chief Officers are responsible for ensuring that budget estimates are prepared in accordance with guidance issued by Cabinet and reflect agreed service performance plans.

### 3.3 Budget Approval

- 3.3.1 The full Council is responsible for agreeing the Council's Budget (including Prudential Indicators) and Policy Framework. The policy framework comprises of a number of statutory plans and strategies.
- 3.3.2 The Council's revenue and capital budget will be proposed by the Cabinet, (on the advice of the Chief Finance Officer), and will be approved by the full Council.
- 3.3.3 The full Council may amend the proposed budget or ask the Cabinet to reconsider it before approving it.

### 3.4 Budget Transfers

- 3.4.1 During the year Cabinet and Chief Officers may need to transfer budgets from one service area to another to reflect changed service needs or priorities in order to deliver the budget policy framework within the financial limits set by the Council.
- 3.4.2 Budget transfers within services should be agreed at Service Management Teams and then reflected in the budgetary control template which feeds into the monthly update reports to [the Corporate Management Team](#) and the quarterly update reports to Cabinet.
- 3.4.3 Budget transfers between service groupings will require the agreement of both services before they can proceed.
- 3.4.4 Transfers to and from Earmarked Reserves need to be agreed by Service Management Teams and reflected during the ~~year in the budgetary control template via the quarterly~~ outturn ~~position~~ reporting. Cabinet will ultimately agree these transfers, the reason for which must be clear in the budgetary control report.
- 3.4.5 After the Quarter 3 Outturn Report to Cabinet no further budget adjustments can be made between services or between subjective headings within the same service for the remainder of the financial year.
- 3.4.6 A capital budget cannot be transferred to a revenue budget ~~head~~.
- 3.4.7 The transfer of capital budgets will require consideration by the Capital Member Officer Working Group (MOWG) and full approval by Cabinet. This will include:
  - Re-profiling from one financial year to another
  - Significant transfers within capital programme areas
  - Transfers between capital programme areas within a service
  - Transfers between services

- 3.4.8 Any increase in overall capital budget e.g. new grant funding or approval to increase borrowing must be approved by [the Corporate Management Team](#) and MOWG before full approval by Cabinet.

### 3.5 Cash Limits

#### 3.5.1 What is the cash limit?

- All running costs of services which are under the control or influence of the Corporate Director.
- The Cash Limit Reserve is the balance which has been built up from any [net](#) underspends in the year, or from previous years, that is earmarked for planned use by the service.

#### 3.5.2 What are cash limits for?

- To give services the flexibility to manage their budgets over a period of more than one financial year.
- To avoid inappropriate spending decisions by budget managers, who may rush to spend their budget allocation as they approach year end in the fear that the budget will be reduced if the spend is not incurred.

#### 3.5.3 What is not included in the cash limit?

- Corporate budgets (e.g. LGA and ANEC subscriptions)
- Members allowances and other costs
- Coroner's costs
- Investment income
- Capital charges and capital financing
- Recharges where Corporate Directors cannot influence the impact on their services (e.g. Central Admin, Customer Services, Design Services, Sustainable Transport Team and Corporate & Democratic Core)
- Other items as agreed by Cabinet

#### 3.5.4 What happens if excessive costs impact upon service groupings (e.g. extreme weather events such as flooding or severe winters, [hyper-inflation etc](#))?

- Requests for excessive costs to be deemed to be outside the cash limit will require approval by Cabinet.
- If approved they will be reported to Cabinet as part of the Forecast of Outturn Report and will be funded from contingencies.



3.5.5 At the end of each year any over or underspends of the cash limited element of the budget will be transferred to the cash limit reserve for each service grouping.

3.5.6 If any service grouping's cash limit reserve is insufficient to fund any overspends then the following year's budget will be adjusted accordingly.

### **3.6 Budget Monitoring and the Control of Income and Expenditure**

3.6.1 The Chief Finance Officer is responsible for:

- Developing an effective framework of budgetary management and control.
- Providing appropriate financial information to enable budgets to be monitored effectively.
- Reporting to Cabinet on the overall Council budget monitoring position on a quarterly basis.
- Reporting to all relevant Scrutiny Committees on a quarterly basis.
- All payments to employees, Members and creditors.
- Maintaining the Council's tax records.
- Advising Chief Officers on all taxation issues that affect the Council.
- Ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- Agreeing arrangements for the collection of income due to the Council.
- Agreeing banking, borrowing and other credit requirements, e.g. leasing.
- Agreeing the write-off of bad debts in accordance with the Council's Debt Recovery Policy.

3.6.2 The Cabinet is responsible for approving contractual arrangements for any work for third parties or external bodies unless the responsible Chief Officer is authorised in this respect under the Officer Scheme of Delegations at Part 3 of this Constitution.

3.6.3 Separate financial procedures for schools have been incorporated into the Council's Scheme for Financing Schools and relate to those matters where decisions have been delegated to school governing bodies.

3.6.4 It is the responsibility of Chief Officers to:

- Control income and expenditure within their service area.

- Monitor performance in conjunction with the budget taking account of financial information provided by the Chief Finance Officer.
- Report on spending variances within their own areas.
- Take any corrective action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

### 3.7 Reporting Council Spending at Year End

3.7.1 The Audit Committee is responsible for approving the annual audited Statement of Accounts.

3.7.2 The Chief Finance Officer is responsible for:

- Publishing a timetable for the closure of the accounts annually.
- Ensuring that the Council's annual Statement of Accounts is prepared in line with statutory deadlines and in accordance with the most up-to-date Code of Practice on Local Authority Accounting produced by CIPFA/LASAAC, the latest Accounts and Audit Regulations (England) and any other relevant guidelines.

3.7.3 It is the responsibility of Chief Officers to ensure that arrangements are put in place each year to deliver the Council's closure timetable.

### 3.8 Use of Council Reserves

3.8.1 The Chief Finance Officer is responsible for advising Cabinet and/or the full Council on levels of reserves for the Council. The advice will be based upon an annual review and risk assessment of the prudent levels of reserves the Council should maintain.

3.8.2 The Chief Finance Officer will manage the Council reserves in accordance with decisions taken by the Cabinet and full Council.

## 4. RISK MANAGEMENT AND CONTROL OF RESOURCES

### 4.1 Risk Management

4.1.1 It is essential that robust, integrated systems are developed and maintained for identifying, evaluating and managing all significant Strategic and Operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

- 4.1.2 The Audit Committee is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management.
- 4.1.3 The Council has nominated the Chief Finance Officer as the lead officer Risk Management Champion and the Deputy Leader as the Member Risk Champion.
- 4.1.4 The Chief Finance Officer is responsible for preparing the Council's Risk Management Policy Statement, promoting it throughout the Council and for advising the Cabinet on proper insurance cover for material risks where appropriate.
- 4.1.5 The Corporate Risk Management Group supported by the [Corporate Risk, Insurance and Governance](#) Manager is responsible for reviewing strategic risks and reporting progress on the management of strategic risk to Cabinet.
- 4.1.6 It is the responsibility of Chief Officers to ensure that there are regular reviews of risk within their areas of responsibility, having regard to advice from the Council's [Corporate Risk, Insurance and Governance](#) Manager and other specialist officers (e.g. crime prevention, fire prevention, Health & Safety).

## 4.2 Internal Control

- 4.2.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 4.2.2 Internal control systems relate to all aspects of management, not just financial management, but it is particularly important that financial internal control systems are effective to safeguard the use of public funds, ensure that the financial accounts of the council are accurate, all transactions are legal and to prevent and detect fraud, misuse or irregularity.
- 4.2.3 The Chief Internal Auditor and Corporate Fraud Manager is responsible for advising on effective systems of internal control. Effective systems of internal control should ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should also ensure that risk management is embedded across the Council as internal controls are established to manage identified risks.
- 4.2.4 It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to effectively manage risks which may prevent them from

achieving corporate and service objectives, continuous improvement, value for money, and effective use of resources.

- 4.2.5 The Council is required to provide an Annual Governance Statement in accordance with [Regulation 6\(1\)\(b\) of the Accounts and Audit \(England\) Regulations 2015](#). As part of this statement, the Chief Executive and the Leader of the Council are required to comment on the effectiveness of the entire internal control environment within the Council as this is a key indicator of good governance.
- 4.2.6 It is the responsibility of the Chief Financial Officer and the Resources Service Grouping Management Team to prepare the Annual Governance Statement.
- 4.2.7 It is the responsibility of the Audit Committee to [review and](#) approve the Annual Governance Statement and to seek the necessary assurance that the Council's corporate governance arrangements including risk management and internal control are effective.

### 4.3 Insurance

- 4.3.1 Insurance provision is a way of managing risk.
- 4.3.2 The Chief Finance Officer is responsible for:
- Effecting insurances falling with the framework approved by Cabinet and dealing with all claims in consultation with other Chief Officers where necessary.
  - Operating an adequately funded self-funding arrangement which protects the Council against undue loss and provides value for money. Services are recharged the costs incurred by the Council for self-funded claims and insurance related expenditure.
  - Reviewing, at least annually, all insurances in consultation with Chief Officers where necessary.
- 4.3.3 It is the responsibility of Chief Officers to:
- Advise the Chief Finance Officer of all new risks, properties, vehicles or potential liabilities for which insurance may be required, and of any changes affecting existing risks or insurance cover required.
  - Notify the Chief Finance Officer in writing without delay of any loss, liability or damage or any event likely to lead to a claim, and provide such information and explanations required by the Chief Finance Officer- or the Council's insurers
  - Consult with the Head of Legal Services on the terms of any indemnity which they are requested to give on behalf of the Council.

- Ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## 4.4 Audit Requirements

4.4.1 Internal Audit is primarily an independent assurance function and is a statutory service in the context of the Accounts and Audit Regulations (England) 2015, which state that:

“A relevant body must undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices.”

4.4.2 The Public Sector Internal Audit Standards (PSIAS) and CIPFA's Local Government Application Note, which came into effect April 2013 and were further revised in April 2017, constitute proper practices to satisfy the requirements for larger relevant local government bodies as set out in the Accounts and Audit Regulations 2015.

4.4.3 The Chief Finance Officer is responsible for:

- Ensuring an effective internal audit function is resourced and maintained.
- Ensuring that the authority has put in place effective arrangements for the internal audit of the entire control environment.
- Supporting internal audit arrangements.
- Ensuring the Audit Committee receives the necessary advice and information so that both functions can operate effectively.

4.4.4 The strategy and terms of reference for Internal Audit are detailed in the Council's Internal Audit Charter which is approved and reviewed by the Audit Committee.

4.4.5 Following the abolition of the Audit Commission and in accordance with the Local Audit and Accountability Act 2014 and Regulation 19 of the Local Audit (Appointing Person) Regulations 2015, the Public Sector Audit Appointments (PSAA) was formally established for Principal Local Government bodies to use as a sector led body to negotiate contracts and make appointments of External Auditors on behalf of the Council. The basic duties of the external auditor are governed by the Local Audit and Accountability Act 2014. Responsibility for the preparation and issuing of the current Audit Code of Practice and guidance to External Auditors resides with the Controller and Auditor General. The Chief Finance Officer is responsible for implementing

agreed actions in response to external audit findings and recommendations.

- 4.4.6 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, Ofsted, Care Quality Commission who have statutory rights of access. These bodies together with internal and external audit provide valuable assurance to the Audit Committee on the effectiveness of the Council's corporate governance arrangements because of their independence and objectivity.
- 4.4.7 Chief Officers are responsible for taking relevant action in response to findings and recommendations arising from the work of all assurance providers, internal or external, or accepting the residual risk if no action is taken.
- 4.4.8 The Chief Internal Auditor and Corporate Fraud Manager is responsible for providing an annual audit opinion on the adequacy and effectiveness of the Council's entire internal control environment. This opinion will be reported in an annual audit report which is considered by both the Corporate Management Team and the Audit Committee. Any significant issues arising from this report will be reflected in the Annual Governance Statement.

## 4.5 Preventing Fraud and Corruption

- 4.5.1 The Council recognises its responsibility to protect the public purse and acknowledges that the public is entitled to expect the Council to conduct its affairs with integrity, honesty and openness and demand the highest standards of conduct from those working for it.
- 4.5.2 The Council is committed to maintaining an ethical culture which does not tolerate fraud and corruption. Any such issues will be thoroughly investigated and, if confirmed, dealt with rapidly in the strongest possible way. We will seek the strongest possible sanctions against those who seek to defraud the Council. This includes taking appropriate action against staff, members, contractors, external individuals and organisations.
- 4.5.3 The Chief Finance Officer has overall financial responsibility for the prevention of fraud and corruption and is liable to be called to account for specific failings. The Chief Finance Officer is responsible for ensuring that the Council is adequately resourced to respond to the fraud risk and has effective internal audit, counter fraud and investigatory resources to help Chief Officers prevent, detect and investigate potential cases of fraud and irregularity.

- 4.5.4 The Audit Committee will review and endorse the Council's Counter Fraud and Corruption Strategy and will seek assurance on its effectiveness and that of other fraud related policies and procedures.
- 4.5.5 Internal Audit independently monitors the existence, appropriateness and effectiveness of internal controls and assists managers to fulfil their responsibilities to prevent and detect fraud and corruption through the strengthening of internal controls.
- 4.5.6 Chief Officers are responsible for establishing, implementing and maintaining adequate systems of internal control, and to ensure that the Council's resources are properly applied. They should be familiar with and assess the types and risks of fraud or corruption that might occur within their area of responsibility and ensure that these risks are effectively managed.
- 4.5.7 Chief Officers are responsible for ensuring that their employees are aware of the Council's counter fraud and corruption strategy and know what to do, and what not to do, if they suspect fraud.
- 4.5.8 Chief Officers are responsible for ensuring that all cases of suspected fraud and corruption are investigated and are required to report all suspected cases to the Chief internal Auditor as soon as they arise.
- 4.5.9 Internal Audit and Corporate Fraud will:
- Lead on awareness raising and facilitate corporate learning.
  - Review the effectiveness of the policies and practices the Council has established to safeguard itself against the risk of fraud and corruption.
  - Provide advice and guidance to managers and staff on the Counter Fraud and Corruption Strategy and the Fraud Response Plan.
  - Provide advice on related legislation application e.g. Human Rights Act and Regulation of Investigatory Powers Act.
  - Maintain a central record of reported fraud and corruption cases.
  - Report to the Chief Officers and the Audit Committee on the use of resources to counter fraud and corruption and of any investigatory work undertaken.
- 4.5.10 The Chief Internal Auditor and Corporate Fraud Manager will take whatever steps are considered necessary, on behalf of the Chief Finance Officer, to ensure all suspected irregularities are investigated and reported in accordance with the Counter Fraud and Corruption Strategy, and Fraud Response Plan. Chief Officers are responsible for taking any appropriate action to prevent further loss and to secure records and documentation against removal or alteration where fraud is suspected.

## 4.6 Use of and Disposal of Assets

- 4.6.1 Council assets include land, buildings, furniture, vehicles, plant and equipment, computer systems, stocks and stores, money and investments, data and information.
- 4.6.2 The Chief Finance Officer is responsible for issuing procedures to safeguard the use and disposal of Council assets, with the exception of land and buildings which are the direct responsibility of the Head of Corporate Property and Land.
- 4.6.3 Chief Officers are responsible for ensuring that adequate and effective arrangements are in place for the care and custody of all assets within their Service area and ensuring that assets are disposed of in accordance with procedures approved by the Chief Finance Officer and/or the Head of [Planning](#)[Corporate Property](#) and [Asset Management](#)[Land](#).

## 4.7 Confidentiality, Security and Protection of Information

- 4.7.1 All employees of the Council have a personal responsibility for the protection and confidentiality of information, whether held in manual or computerised records, as specified in the Employee Code of Conduct set out in Part 4 this Constitution.
- 4.7.2 Specific guidance is given on current IT legislation, risks and security threats in relation to IT use in the Council's Information Security Manual.
- 4.7.3 It is the responsibility of Chief Officers to ensure that all computerised systems within their Service areas are operated in accordance with legal requirements and all appropriate officers are familiar with the guidance provided (e.g. ICT Policy, Personal Information Security Policy ).
- 4.7.4 Financial records, manual and computerised, should be retained and disposed of in accordance with the Council's Document Retention Policy.

## 4.8 Treasury Management

- 4.8.1 The Council has adopted CIPFA's Treasury Management in the Public Services Code of Practice.



- 4.8.2 Accordingly, the full Council is responsible for approving a Treasury Management Policy Statement, on an annual basis, stating the policies and objectives of its treasury management activities.
- 4.8.3 The full Council is also responsible for approving Treasury Management Practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 4.8.4 The Council will receive reports on its Treasury Management policies, practices and activities, including as a minimum, an annual strategy and plan for the coming financial year at or before the start of each financial year and an annual report after its close, in the form prescribed in the TMPs.
- 4.8.5 The Council has delegated its responsibility for the [scrutiny and implementation and](#) monitoring of its Treasury Management policies and practices to the [Cabinet Audit Committee](#).
- 4.8.6 Responsibility for the execution and administration of its Treasury Management decisions, including decisions on borrowing, investment and financing, have been delegated to the Chief Finance Officer, who will act in accordance with the Council's policy statements and TMPs.
- 4.8.7 The Chief Finance Officer is responsible for reporting to the Cabinet not less than three times in each financial year (Annual Strategy, Mid-Year Report and an Outturn Report) on the activities of the Treasury Management operation and on the exercise of their delegated Treasury Management powers.

## 4.9 Banking

- 4.9.1 All arrangements concerning banking services, including the opening, closing and operation of the Council's bank accounts shall be made solely upon direction of the Chief Finance Officer.
- 4.9.2 The Chief Finance Officer is responsible for the reconciliation of the Council's bank accounts with the Council's financial accounts.
- 4.9.3 Chief Officers are responsible for ensuring that all banking arrangements determined by the Chief Finance Office are observed and to advise them of any changes in their Services that may require a change in these arrangements.

## 4.10 Income Collection

- 4.10.1 The Chief Finance Officer is responsible for approving all methods of income collection, records and systems.
- 4.10.2 The Council has a statutory responsibility to conform to the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007.
- 4.10.3 Accordingly, the Cabinet is responsible for approving the Council's Money Laundering Policy.
- 4.10.4 Responsibility for the implementation and administration of the Council's Money Laundering Policy has been delegated to the Chief Finance Officer who is responsible for nominating an officer (and deputy) to act as the Council's Money Laundering Reporting Officer.
- 4.10.5 Chief Officers are responsible for:
- Ensuring all income is held securely.
  - Ensuring compliance with income and banking arrangements specified by the Chief Finance Officer.
  - In consultation with the Chief Finance Officer reviewing fees and charges, at least annually.
  - Ensuring that all income is banked and allocated promptly and efficiently.
  - Carrying out reconciliations in an accurate and timely manner.

## 4.11 Grant and External Funding

- 4.11.1 Chief Officers are responsible for ensuring that any bids for external funding (including grants) are made in consultation with the Chief Finance Officer.
- 4.11.2 Chief Officers must ensure that any project to be funded by external [fundingbodies](#) does not commence until proper approval has been obtained and the source of external funding confirmed.
- 4.11.3 The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. Chief Officers are responsible for providing all necessary information to enable this to be achieved.

## 4.12 Debt Collection

- 4.12.1 The Cabinet is responsible for approving the Council's debt recovery policy.
- 4.12.2 The Chief Finance Officer is responsible for maintaining records of debts and the implementation of the Council's debt recovery policy.

- 4.12.3 Chief Officers are responsible for:
- Ensuring effective systems are in place to allow sums due to the Council to be easily identified.
  - Ensuring debtor accounts are raised accurately and promptly and that adequate records are maintained to support the raising of the debt and any recovery action taken.
  - Assisting in the collection of debt by providing any further information necessary to pursue the debt or monitoring debts on the Council's behalf as requested by the Chief Finance Officer.
  - Establishing and initiating appropriate recovery procedures, including legal action, where necessary, for debts that are not paid promptly.
  - Recommending to the Chief Finance Officer all debts to be written off and to keep records of all sums to be written off.
  - Obtaining the appropriate approval when writing off debts, as specified in the Debt Management Policy.
  - Providing sufficient information regarding outstanding debts to the Chief Finance Officer to determine bad debt provisions at the year end.
  - Ensuring that all appropriate staff are fully aware of the debt management strategy and kept up to date with developments.
  - Ensuring that appropriate controls are in place to ensure that debt management recovery procedures are adhered to.
  - Ensuring that adequate IT systems are in place that support debt management procedures.

#### **4.13 Voluntary Funds and Trust Funds**

- 4.13.1 Chief Officers, in consultation with the Chief Finance Officer, must approve any employee's involvement in a voluntary or trust fund.
- 4.13.2 Chief Officers and/or Trust Fund Managers are responsible for ensuring that funds are managed and administered in accordance with any statutory and specific requirement for each fund, and to equivalent standards as those applicable to the Council generally.

#### **4.14 Purchase Cards**

- 4.14.1 All applications for purchase cards must be approved by the Chief Finance Officer.
- 4.14.2 The Chief Finance Officer will issue guidelines regarding the application process and for their controlled use.
- 4.14.3 Card holders are personally responsible for the security of cards and for ensuring compliance with guidelines for their use.

## 4.15 Contracts, Agreements and Purchasing

- 4.15.1 All contracts, agreements and purchases are subject to the requirements of the Council's Contracts Procedure Rules specified in this Constitution, and the procedures and financial limits which they prescribe (as revised from time to time), including any advice contained in the Procurement Advice Centre.
- 4.15.2 The Corporate Chief Procurement Manager Officer is responsible for developing the Corporate Strategy for Commissioning and Procurement and providing advice on procurement issues.
- 4.15.3 The Head of Legal and Democratic Services is responsible for agreeing the content and format of contracts and agreements and for signing any contract or legal agreement involving a charge upon assets or property.
- 4.15.4 The Chief Finance Officer is responsible for issuing guidance notes to Chief Officers on the procedures to be adopted in relation to:
- Placing requisitions for goods, supplies and services.
  - Placing of official orders.
  - Potential financing options e.g. buy, rent or lease.
  - Receipt of goods.
  - The authorisation of invoices, interim certificates and final accounts for building or construction contracts.
  - The system and timescales for the payment of creditors.
  - Records and procedures required in relation to monitoring and control of contracts.
- 4.15.5 The Chief Finance Officer has overall responsibility for ensuring safe and efficient arrangements for all payments.
- 4.15.6 Chief Officers are responsible for ensuring that:
- Before entering into purchasing commitments, the estimated cost is covered by financial provision in the budget to which it relates.
  - Contract Procedure Rules, procurement and payments procedures are applied within their service areas, including adherence to any procurement guidance in the Procurement Advice Centre.
  - Appropriate records are maintained to substantiate decisions made under delegated powers.
  - All employees within their Service area are aware of the guidance issued by the Chief Finance Officer and for ensuring that effective internal controls are established to ensure compliance.

- All employees within their service area are aware of the Council's Employee Code of Conduct and how this relates to this area.

## 4.16 HR and Employees

- 4.16.1 The full Council is responsible for determining how officer support for executive and non-executive roles within the Council will be organised.
- 4.16.2 The Chief Executive is responsible for providing overall effective management to employees and for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- 4.16.3 The Chief Finance Officer is responsible for paying employees securely, accurately and on time and for the payment of travel and subsistence claims.
- 4.16.4 Chief Officers are responsible for ensuring the operation of adequate and effective procedures for payroll and personnel matters to allow the Chief Finance Officer to fulfil their responsibilities.
- 4.16.5 Chief Officers are responsible for ensuring compliance with Council policies in relation to claims for travel and subsistence, and for arranging the most cost effective means of travel and subsistence.
- 4.16.6 Chief Officers are also responsible for controlling employee numbers by:
- Advising the Cabinet on the annual budget necessary to cover estimated staffing levels.
  - Adjusting the staffing levels to that which can be funded within approved budget provision and varying the provision as necessary within that constraint in order to meet changing operational needs.
  - The proper use of recruitment and appointment procedures.
  - Monitoring employee costs through monthly budget reports.
  - Monitoring vacancies.

## 5. FINANCIAL SYSTEMS AND PROCEDURES

### 5.1 General

- 5.1.1 Sound systems and procedures are essential for an effective framework of accountability and control.
- 5.1.2 The Chief Finance Officer is responsible for:

- The operation of the Council's accounting and financial systems.
- The format of accounts and any supporting financial records.
- Advising Chief Officers on the establishment and operation of trading accounts and business units.

5.1.3 Any changes proposed by Chief Officers to the existing financial systems or the establishment of new systems must first be approved by the Chief Finance Officer.

5.1.4 It is the responsibility of Chief Officers to:

- Ensure the proper operation of financial processes in their own Services and agree with the Chief Finance Officer any changes to these processes to meet their own specific Service needs.
- Ensure that their employees receive relevant and appropriate financial training that has been approved by the Chief Finance Officer.
- Ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection Legislation.
- Ensure that their employees are aware of their responsibilities under Freedom of Information and Data Protection Legislation.

## 5.2 Payment of Members Allowances

5.2.1 The Chief Finance Officer is responsible for operating secure and reliable systems to process Members Allowances.

5.2.2 It is the responsibility of Members to submit properly certified claims in accordance with the format and timescales specified by the Chief Finance Officer.

## 5.3 Taxation

5.3.1 The Chief Finance Officer is responsible for ensuring that appropriate advice and guidance is available to Chief Officers on all taxation issues that affect the Council, having regard to guidance issued by appropriate bodies and relevant/applicable legislation.

5.3.2 The Chief Finance Officer is responsible for maintaining the Council's tax records, making all payments, receiving tax credits and submitting tax returns by their due date, as appropriate, and complying with HM Revenue and Customs regulations.

5.3.3 Chief Officers are responsible for compliance with any guidance issued by the Chief Finance Officer.

## 5.4 Council Tax Collection Fund

- 5.4.1 The Chief Finance Officer is responsible for the establishment and maintenance of the Collection Fund and will make suitable arrangements for it to be administered in accordance with the Local Government Finance Acts 1987 and 1988 and any other Enactments relating to the proper administration of public funds.
- 5.4.2 The Chief Finance Officer will undertake the day to day management and administration of the Collection Fund, including the maintenance of a Collection Fund Account for administering the raising and recovery of Council Tax and for paying precepts and demands on those funds.

## 5.5 Business Rates Collection Fund – Business Rates Retention Scheme

- 5.5.1 The Chief Finance Officer is responsible for the establishment and maintenance of a separate Collection Fund in respect of Business Rates and will make suitable arrangements for it to be administered in accordance with Schedule 7B of the Local Government Finance Act 1988.
- 5.5.2 The Chief Finance Officer will undertake the day to day management and administration of the Collection Fund including the maintenance of a Collection Fund Account for administering the raising and recovery of Business Rates and for paying precepts and demands on those funds.

## 6 PARTNERSHIPS

- 6.1 The Cabinet is the focus for forming partnerships with other local, public, private, voluntary and community sector organisations. The Cabinet is responsible for approving any delegations of its powers, to address local needs.
- 6.2 The Council or the Cabinet can delegate its functions, including those relating to partnerships, to officers. Details are set out in the Scheme of Delegation that forms part of this Constitution. Where its functions are delegated, the Cabinet remains accountable for them to the full Council.
- 6.3 The Chief Executive or the appropriate chief officer or senior officer nominated by the chief officer may represent the Council on partnership and external bodies, in accordance with the respective decisions of the Council and the Cabinet.
- 6.4 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct in partnerships that apply throughout the Council.

- 6.5 The Chief Finance Officer is responsible for ensuring that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. They must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must also ensure that the risks have been fully appraised before agreements are entered into with external bodies.



## Appendix A - FINANCIAL MANAGEMENT STANDARDS

- FMS01 Introduction to Financial Management Standards
- FMS02 Budget Preparation and Medium-Term Financial Planning
- FMS03 Budget Monitoring and Reporting
- FMS04 ~~Preparation and Monitoring of the Capital Programme~~Accounting Policies
- FMS05 ~~Annual Statement of Accounts~~Accounting Records and Returns
- FMS06 ~~Maintenance of Reserves and Provisions~~Preparation and Monitoring of the Capital Programme
- FMS07 ~~Risk Management~~Annual Statement of Accounts
- ~~FMS08 Internal Control~~
- FMS09 ~~Insurance~~Maintenance of Reserves and Provisions
- FMS10 ~~Audit Requirements~~Risk Management
- FMS11 ~~Use and Disposal of Assets~~Audit Requirements
- FMS12 ~~Treasury Management~~Internal Control
- ~~FMS13 Banking~~
- FMS14 ~~Income Collections~~Insurance
- FMS15 ~~Grants and External Funding~~Treasury Management
- FMS16 ~~Debt Recovery~~Banking
- FMS17 ~~Voluntary Funds and Trust Funds~~Income Collection
- FMS18 ~~Corporate Procurement Cards~~Debt Recovery
- ~~FMS19 Ordering and Paying for Work, Goods and Services~~
- FMS20 ~~HR and Employee Requirements~~Corporate Procurement Cards
- FMS21 ~~Financial Management Systems~~Payroll HR Requirements

FMS22 ~~Accounting Policies~~ Taxation

~~FMS23 Accounting Records and Returns~~

FMS24 Ordering and Paying for Works, Goods and Services ~~Taxation~~

FMS25 ~~Council tax, Business Rates and Collection~~ Partnerships ~~Fund~~

FMS26 ~~Partnerships~~ Grants and External Funding

FMS 29 Voluntary Funds and Trust Funds

FMS 30 Financial Management Systems

## Appendix 13

### Part 4G: Contract Procedure Rules

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## Contract Procedure Rules

### 1. INTRODUCTION

#### 1.1 What are Contract Procedure Rules?

- 1.1.1 The Contract Procedure Rules (CPRs) provide the framework for procurement activity across the Council, setting out how contracts for goods, works, services and utilities should be put in place and managed, and detailing the record keeping and reporting requirements related to procurement activity. They apply to all Service Groupings across the Council.
- 1.1.2 To avoid the need for regular amendment due to changes in post titles generic terms are included for officers as follows:
- (a) The term “Chief Officers” refers to the Council’s Chief Executive and Corporate Directors.
  - (b) The term “Procurement Officer” refers to any officer of the Council responsible for carrying out a procurement exercise – not just to officers with “Procurement Officer” as their job title. Any Council officer undertaking a procurement exercise is a “Procurement Officer” for the purposes of these rules.
  - (c) In addition to the above definitions, the general term “officer” refers to any employee of the Council.
- 1.1.3 The Contract Procedure Rules should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in the Constitution.
- 1.1.4 The content of these CPRs is supported by additional guidance and documentation contained in the Advice Centre in the “Procurement Catalogue” section of the Council intranet (henceforth referred to as the “Advice Centre”).
- 1.1.5 These CPRs observe the requirements of UK legislation namely the Public Contracts Regulations 2015 (PCRs) and, in addition to ongoing amendments and updates as issued by the Cabinet Office in the form of Procurement Policy Notes. [These CPRs will also adhere to new procurement legislation as and when introduced and to be updated accordingly.](#)

### 2. BASIC PRINCIPLES

- 2.1 All procurement procedures must:

- (a) Realise value for money by seeking to achieve the optimum combination of whole life costs and quality of outcome,
- (a) Be consistent with the highest standards of integrity,
- (b) Operate in a transparent manner,
- (c) Ensure fairness in allocation of public contracts,
- (d) Support all relevant Council priorities and policies including the Medium Term Financial Plan,
- (e) Be funded through the allocation of an appropriately established budget,
- (f) Comply with the Council's Procurement Strategy, the Social Value Policy and Sustainable Buying Standards, and:
- (g) Comply with all legislative requirements including European Union (EU) Treaty principles, applicable legislative principles of international trading countries and the UK, including amendment regulations, which in relation to procurement are as follows:
  - transparency - contract procedures must be transparent and contract opportunities should generally be publicised;
  - equal treatment and non-discrimination - potential suppliers must be treated equally;
  - proportionality - procurement procedures and decisions must be proportionate;
  - mutual recognition - giving equal validity to qualifications and standards from other Member State trading countries, where appropriate.

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

### 3. OFFICER RESPONSIBILITIES

#### 3.1 Officers

3.1.1 Officers will comply with these Contract Procedure Rules (CPRs), the Council's Constitution and with all relevant legal requirements. Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply.

### 3.1.2 Officers will:

- (a) Have regard to the guidance in the Advice Centre,
- (b) Keep the records required by Rule 19 of these CPRs,
- (c) Take all necessary procurement, legal, financial and professional advice, taking into account the requirements of these CPRs,
- (d) Prior to letting a contract on behalf the Council, check whether:
  - the Council already has an appropriate contract in place in the Corporate Contracts Register, or:
  - an appropriate national, regional or other collaborative contract is already in place.

Where the Council already has an appropriate contract in place, then this **must** be used unless it can be established that the contract does not fully meet the Council's specific requirements in this particular case, and this is agreed following consultation with Corporate Procurement.

Where an appropriate national, regional or collaborative contract is available, consideration should be given to using this, provided the contract offers value for money.

- (e) Ensure that when any employee, either of the Council or of a service provider, may be affected by any transfer arrangement, then any Transfer of Undertaking (Protection of Employment) (TUPE) and Pensions issues are considered and legal and HR advice from within the Council is obtained prior to proceeding with the procurement exercise.

3.1.3 Failure to comply with any of the provisions of these CPRs, the Council's Constitution or legal requirements may be brought to the attention of the Monitoring Officer, Chief Internal Auditor and Corporate Fraud Manager, or relevant Corporate Director as appropriate. Depending on the nature of the non-compliance this may result in disciplinary action being taken.

3.1.4 In cases of non-compliance with these CPRs, the Chief Procurement Officer may, following consultation with the officer's Head of Service, temporarily or permanently suspend any officer's access to the Oracle system, e-tendering system, and use of purchasing cards or other payment mechanisms.

3.1.5 In addition, in cases of serious non-compliance, the Chief Procurement Officer may temporarily suspend any officer's delegated authority to place contracts, and refer the matter to the Council's Chief Internal Auditor and Corporate Fraud Manager for further investigation.

## 3.2 Chief Officers

### 3.2.1 Chief Officers will:

- (a) Ensure their Service Grouping complies fully with the requirements of these CPRs,
- (b) Ensure contracts are recorded in the corporate Contracts Register as held and maintained by Corporate Procurement, through the use of the Procurement Acceptance Report as detailed in Rule 19,
- (c) Ensure that their Service Grouping provides the requisite information to allow the Council to maintain the Procurement Work Programme, including the submission of a Procurement Initial Request Form at as early a stage as possible.

Procurement Requests can be made via the Advice Centre along with documentation for Procurement Acceptance Report and Delegated Decision Records.

## 4. VARIATIONS TO CONTRACT PROCEDURE RULES

- 4.1 Except where the PCRs (2015) apply, the Executive has the power to waive any requirements within these CPRs for specific projects.
- 4.2 Additionally, and where proceeding under a Variation does not breach the Public Contracts Regulations (2015), these Rules may be waived or varied where the circumstances are certified by the Corporate Director, Resources (advised as appropriate by the Chief Procurement Officer) as meeting any of the following criteria:
  - (a) with an organisation already engaged by the Council for a similar and related procurement and where there is significant benefit to extending the contract to cover this additional requirement, without exposing the Council to unacceptable risk;
  - (b) involving cases of genuine, unforeseen urgency, where it is not possible to comply with the CPRs;
  - (c) for the purchase of a work of art or museum specimen, to meet the specific requirements of an artistic, cultural, or performing arts event, or otherwise for the protection of exclusive rights which cannot be procured competitively due to the nature of the requirement;

- (d) in relation to time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this; or
  - (e) where relevant UK or EU legislation not otherwise referred to in these CPRs prevents the usual procurement process from being followed.
- 4.3 The appropriate Officer must complete an Application for Variation, which must be authorised by their Head of Service before being submitted to Corporate Procurement. Corporate Procurement will review the Application for Variation before obtaining a decision from the Corporate Director, Resources (or other officer as delegated).
- 4.4 Committing to expenditure with a supplier, without a valid contract or a Variation in place, is a breach of these CPRs. Therefore, where a Variation is being sought retrospectively for expenditure to which a Service Area has committed, their Corporate Director must authorise the variation request by exercising their delegated powers in order that Corporate Procurement may publicly record the contract and authorise payments, and to make them aware of the breach, before it is submitted to Corporate Procurement.
- 4.5 Every Variation form will be recorded on a master register to be maintained by Corporate Procurement.
- 4.6 Where a Variation is being applied for by Corporate Procurement, it may also be scrutinised by Internal Audit, to ensure the robustness of the procedure.
- 4.7 The use of e-procurement does not negate the requirement to comply with all elements of these CPRs. The circumstances under which an exemption to the use of e-procurement can be requested are detailed in Rule 12.
- 4.8 Where a service area has requested and been approved a Variation to these rules the service area must undertake due diligence regarding the supply organisation including the agreement of Terms and Conditions to ensure risk to the Council is mitigated.

## 5. EXEMPTIONS

- 5.1 The following contracts and/or payments are exempt from these CPRs:
- (a) Contracts for the execution of mandatory works by statutory undertakers, where the statutory undertaker is the only body which can perform the works. Such statutory undertakers include:
    - i. British Telecom – specifically for telecoms infrastructure works.
    - ii. Network Rail – specifically for works affecting the railway infrastructure.



- iii. Northern Gas Networks – specifically for gas supply infrastructure works.
- iv. Northern PowerGrid – specifically for electricity infrastructure works.
- v. Northumbria Water – specifically for water and sewerage infrastructure works.
- vi. Highways England – specifically for works to the core road network under their management.

(b) Statutory fees payable:

- i. to the Driver & Vehicle Licensing Agency and/or Drive & Vehicle Standards Agency (formerly VOSA).
- ii. to the Disclosure & Barring Service.
- iii. to the Care Quality Commission under section 85(1) of the Health and Social Care Act 2008.
- iv. set by government for education or inter-agency adoption funding.
- v. to Ofsted for the inspection of a school, children’s home, or other facility,
- vi. for TV licenses in Council owned or operated premises.
- vii. for Phonographic Performance Ltd or PRS for Music, for the playing of recorded music in public, or for the use of the musical composition and lyrics in that recording.
- viii. to NHS Business Services Authority for prescription charges.
- ix. for fees incurred for Parking Charge Notices issued by the Council.
- x. Fees payable to Public Health England with respect to the Child Death Notification Service.
- xi. Payments in relation to external auditors as directed by central government.
- xi.xii. Payments for documents, document certification and authentication services, which may only be provided by notaries, or from the issuing authority, such as the General Registry Office or HM Passport Office.

(c) For the creation of imprest account relating to contracts let that have followed a compliant procurement process.

(d) Contracts for the carrying out of statutory public health funerals under the Part 3 of the Public Health (Control of Disease) Act 1984.

(e) Payment for the services of veterinary experts for the emergency care of animals.

- (fe) Contracts for the purchase of newspaper advertising for statutory notices, and contracts for the purchase of broadcasting time, including for the placing of radio and television advertising.
- (gf) Contracts to provide sponsorship to events, awards schemes, or other promotional activity being organised by a third party.
- (hg) Fees payable in advance on an annual basis for publications, access to online information and membership fees, only delivered by the publishing body, and membership fees of a recognised industry body membership programme. Use of this exemption must be followed up with a Procurement Acceptance Report as detailed in Rule 19.
- (ih) Contracts for actors or performers to meet the specific requirements of an artistic, cultural, or performing arts event being organised by the council.
- (ji) Contracts of employment which make an individual a direct employee of the authority.
- (kj) A staff secondment, where an employee of another organisation shall work on a Council project, on a temporary basis, but where they will not become an employee of the Council.

**NB:** While the CPRs do not apply to staff secondments, authorisation to proceed must be obtained from Human Resources, and the terms of the secondment appropriately documented.

- (lk) Contracts for legal representation by a lawyer (advocate, barrister, or solicitor) in arbitration or conciliation proceedings, judicial proceedings before the courts, tribunals or public authorities of an EU member state or third country or before international courts, tribunals or institutions. Also, including payments for legal advice given by a lawyer, or other expert opinion requested, in preparation for, or connected to, any of the proceedings mentioned above.
- ~~(ml) Payments for legal advice given by a lawyer, or other expert opinion requested, in preparation for, or connected to, any of the proceedings mentioned in (k) above.~~
- ~~(m) Payments for documents, document certification and authentication services, which may only be provided by notaries, or from the issuing authority, such as the General Registry Office, HM Passport Office.~~
- (mn) Payments for legal services provided by trustees or appointed guardians or other legal services, the providers of which are designated by a court or tribunal.

- (~~ne~~) Fees payable to Durham Constabulary to cover the cost of additional policing presence at public events or for temporary public safety purposes.
- (~~op~~) Appointment of independent planning inspectors nominated by the Royal Institute of Chartered Surveyors (RICS) under the NPIERS scheme.
- (~~pq~~) Fees payable to a qualification awarding body for a professional or vocational qualification being undertaken by a Council Officer with the support of the Council.
- (~~qf~~) Accreditation and membership, fees payable to an awarding or professional body for the accreditation or certification, or fees for services required to undertake a service being provided by the Council.
- (~~rs~~) Fees payable for Royal Mail postage, including franking machine credits, and for financial transaction services required by the Council.
- (~~st~~) Agreements regarding the acquisition, disposal, or transfer of land (to which the Financial Procedure Rules apply), or:
- (~~tu~~) The payment of grants to third parties.

**NB:** While grants are not covered by these CPRs, there are rules on the awarding of grants which do need to be observed. The Council cannot simply choose to treat a procurement as a grant in order to avoid conducting a competitive process. Officers should follow any guidance contained in the Advice Centre.

- (~~uv~~) Where the Council is providing a payment processing facility to a non-profit body, and where this does not make the Council the accountable body for the contracts or transactions in question.
- (~~vw~~) Payments for services with regard to high needs or special education (including maintained schools Communities of Learning and Behaviour Panels), social care, health, safeguarding, or urgent operational needs, if in the opinion of the relevant Corporate Director it is considered to be in the Council's interests or necessary to meet the authority's obligations under relevant legislation. Use of this exemption by the relevant Corporate Director must be followed up with a Procurement Acceptance Report as detailed in Rule 19.
- (~~wx~~) Those relating to residential and/or nursing care, or independent living services, to a person or persons to whom the Council has a duty or power to provide under the Care Act 2014, and other relevant legislation relating to, homelessness, social care, health and safeguarding. Use of this exemption by the relevant Corporate Director must be followed up with a Procurement Acceptance Report as detailed in Rule 19.

- (xy) Services relating to health care as defined by the Health Care Services (Provider Selection Regime) Regulations 2022 will be applied removing those health care services from regulation under the CPRs. Use of this exemption by the relevant Corporate Director must be followed up with a Procurement Acceptance Report as detailed in Rule 19.

## 6. RELEVANT CONTRACTS

- 6.1 All Relevant Contracts must comply with these CPRs. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the supply of goods, or the carrying out of works or services.

These include arrangements for:

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

- 6.2 A contract awarded under a Variation to these CPRs (as per Rule 4) remains a Relevant Contract in all aspects other than those elements of the CPRs which were specifically waived.

## 7. RISK ASSESSMENT

- 7.1 Projects of strategic importance, high value, or complexity require appropriate risk assessments to be undertaken, in line with Corporate Risk Management. The project risk assessment must be undertaken by the Service Area. Any procurement activity risks will be managed through the Council's procurement processes. The project risk assessments will identify where further specialist advice should be sought.
- 7.2 In order to ensure the Council meets its duties under the Public Services (Social Value) Act 2012, there must be an appraisal of the opportunities to address social value outcomes through the proposed procurement, which may include a separate social value opportunity assessment.
- 7.3 Full details of the process to be followed, including the approved risk log, matrix, and social value options appraisal, are available in the Advice Centre.

## 8. PRE-TENDER MARKET TESTING AND CONSULTATION

- 8.1 The Council should seek to consult the potential supplier market, prior to the issue of the Invitation to Tender or Request for Quotation, in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential organisation.
- 8.2 Sufficient lead-in time must be built into any major procurement project to allow for adequate pre-tender market testing.
- 8.3 When engaging with potential suppliers, the Council must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, and where this may prejudice the equal treatment of all potential bidding organisations or distort competition.
- 8.4 In undertaking any market testing activities, the Officer responsible should refer to any guidance contained in the Advice Centre.

## 9. COMPETITION REQUIREMENTS

### 9.1 Competition Requirements

- 9.1.1 The Procurement Officer must establish the total value of the procurement including whole life costs and incorporating any potential extension periods which may be awarded.
- 9.1.2 Based on this value, quotations or tenders must then be invited, and appropriately advertised, in line with the financial thresholds detailed in the Advice Centre.
- 9.1.3 Where Part 2 of the PCRs applies (i.e. for any contracts likely to exceed the relevant PCRs threshold), the Procurement Officer must determine, prior to advertising, whether the contract is to be divided into lots. If it is decided not to subdivide the contract into lots, the reason for this decision must be recorded in the Procurement Acceptance Report required by Rule 19.
- 9.1.4 Where Part 2 of the Public Contracts Regulations (2015) applies (i.e., for any contracts likely to exceed the relevant PCRs threshold), Corporate Procurement shall determine the procedure for conducting the procurement exercise.
- 9.1.5 The procurement process and approach set out in 9.1.2 can be varied on an exception basis if it is consistent with an approach permitted by a Cabinet Office Procurement Policy Note and this is approved by a Procurement Officer in advance of any approach to market.

## 9.2 Negotiation with a Single Supplier (below PCRs)

9.2.1 In exceptional circumstances, a contract which will not exceed the relevant PCRs threshold may be awarded without a competitive procurement, via direct negotiation with a single supplier, following a similar process to the PCRs Regulation 32, Negotiated Procedure without prior publication.

9.2.2 Such an award may **only** be made directly by, or with written approval from, Corporate Procurement, and **only** in the following circumstances:

- (a) for the purchase of goods which are patented or have such special technical characteristics that they may be considered unique, and where these goods are only available from one supplier; including cases where technical compatibility is required with an existing requirement that has been previously competitively procured;

(Note that the presence of a patent alone does not permit the use of this procedure – many patented products are available from more than one supplier);

Or:

- (b) for the execution of works or services involving unique, highly specialist knowledge or skills and where it can be demonstrated that only one organisation possesses the required knowledge or skills:

Or:

- (c) for the execution of works or services, where there is considerable benefit to the Council in negotiating with a particular proposed supplier, and where this does not expose the Council to unacceptable risk.

Or:

- (d) where an open or restricted Tender, or an openly advertised Request for Quotation, has been undertaken, and in which no compliant bids were received.

9.2.3 The use of this process may be invalidated by prior negotiation or discussion (of any kind), between a Service Area and a proposed supplier, without the involvement of Corporate Procurement, where such negotiation may distort or restrict the potential market or otherwise prejudice the Council's position. Corporate Procurement reserves the right to refuse the award of a contract via this process where such unauthorised negotiation has taken place. Where a service area has been notified by Corporate Procurement that they may contract with a proposed supplier the service area must undertake due diligence regarding the supply organisation including the agreement of Terms

and Conditions, that may require seeking advice from Legal Services, to ensure risk to the Council is mitigated.

- 9.2.4 Contracts awarded under the provisions of this Rule may have a duration of no more than three years, unless agreed in writing with the Chief Procurement Officer.

**NB** Note that when using Rule 9.2 above, no contract may be entered into until the relevant notification has been issued by Corporate Procurement, as set out in Rule 19.3.

## 10. INVITATION TO TENDER / REQUEST FOR QUOTATION

- 10.1 Invitations to Tender, Requests for Quotation, Further Competitions and Quick Quotes must be issued in accordance with the requirements of these CPRs, with particular attention to Rule 7, Rule 9 and Rule 17. The Procurement Officer must ensure they are familiar with, and adhere to, the minimum current threshold values, as published on the Advice Centre.
- 10.2 Above the single quotation threshold, all Invitations to Tender, Requests for Quotation and Quick Quotes must be issued via the Council's e-tendering system. Procurement documents must be issued via the e-tendering system.
- 10.3 Where Quick Quotes are used the service area must, as first option, identify 2 Durham based organisations to be invited to the Quick Quotes competition issued via the Council's e-tendering system.
- 10.4 In exceptional cases, where specific circumstances mean that a procurement process cannot be carried out electronically or, for example, where there is a failure of the electronic system, and where the value is below the relevant PCR's financial threshold, permission to conduct a procurement process by alternative means must be obtained from the Chief Procurement Officer using the relevant exemption form. This can be found in the Advice Centre. This exemption must be sought before requesting quotations or tenders.
- 10.5 When advertising a contract, the Procurement Officer will also ensure that a notice is placed on the Contracts Finder website, as required by Regulations 106 and 110 of the PCRs (2015).

## 11. SHORTLISTING

- 11.1 Any shortlisting (i.e. Selection Questionnaire (SQ)) must have regard to the economic, financial and technical standards relevant to the contract and the Evaluation Criteria. Special rules apply to contracts covered by the PCRs (2015) and must be issued using the Council's version of the Government Standard Selection Questionnaire template. Officers should refer to any further guidance contained in the Advice Centre.

- 11.2 Where the likely value of the procurement is less than the PCRs threshold for *goods and services* (even where the contract is not for goods or services), no shortlisting phase or SQ may be used.
- 11.3 Where applying financial turnover threshold as a shortlisting criteria, the threshold used must be no more than two times the estimated total value of the proposed contract.
- 11.4 When shortlisting as part of a Restricted tender process, a minimum of five bidding organisations should be shortlisted to tender, except in cases where fewer than five compliant SQ responses are received, or minimum threshold advised is not met. In a Competitive Dialogue or Competitive Procedure with Negotiation, the minimum shall be three, except in cases where fewer than three compliant SQ responses are received.

## 12. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS

### 12.1 Tenders

- 12.1.1 Bidding organisations must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirements. Where Part 2 of the PCRs (2015) applies, Chapter 2 of the Regulations lays down specific minimum time periods for tenders.
- 12.1.2 As in Rule 10 (above) tenders, except those which have been approved as exempt from electronic tendering, must be submitted electronically via the e-tendering system. Tenders submitted by any other means must not be accepted.

### 12.2 Quotations

- 12.2.1 As in Rule 10 (above), responses to Requests for Quotation and Quick Quotes must be submitted electronically via the e-tendering system, except where specifically exempt under Rule 10.4. Quotations submitted by any other means must not be accepted.

### 12.3 Electronic Arrangements

- 12.3.1 Submissions which are received electronically via the e-tendering system will be opened by the Procurement Officer. The system will not allow any submissions to be opened until the allocated return date / time has passed.

### 12.4 Hard Copy Arrangements



- 12.4.1 In the event that 'hard copy' tenders are to be accepted (see Rule 10 and Rule 12.1.2 of these CPRs for guidance) these must be submitted, sealed, in the envelope provided with the procurement documents and sent by recorded delivery, addressed to the Head of Legal & Democratic Services at the Council's registered business address, without any mark revealing the bidding organisation's identity. Hard copy tenders submitted by any other means will not be accepted.
- 12.4.2 All hard copy tenders will be held by the Head of Legal & Democratic Services until the tender opening date/time has been reached.
- 12.4.3 All hard copy tenders for the same contract will be opened at the same time by a representative of the Chief Officer who invited the tenders and a representative from Legal & Democratic Services. A register of tenders received will be kept by Legal & Democratic Services and will be initialled on each occasion by the officers who are present at the opening of the tenders.
- 12.4.4 In the event that hard copy quotations are to be accepted (see Rule 10 and Rule 12.2.1 of these CPRs for guidance) these must be submitted in a plain envelope marked 'Quotation for....' followed by a description of the goods, works or services being procured.
- 12.4.5 Hard copy quotations will be received directly by Legal and Democratic Services. All quotations must be opened together once the official return date / time has been passed.

## **12.5 Late Submissions**

- 12.5.1 Tenders, Quotations or Selection Questionnaires which are received after the stated deadline shall be automatically rejected, except in the following circumstances:
- (a) Where the delay in submission is the result of a failure of the electronic system, and where this can be verified to be the case, or:
  - (b) Where only one submission is received, and where this submission has arrived late, but is compliant in every other respect, and with the approval of Corporate Procurement.

## **13. EVALUATION CRITERIA AND STANDARDS**

### **13.1 Evaluation Criteria**

- 13.1.1 In any procurement exercise the successful bid should be the one which either:
- (a) Offers the lowest price, or:

- (b) Offers the most economically advantageous balance between quality, price and social value, as applicable.

In the latter case, the Council will use criteria linked to the subject matter of the contract to determine that an offer is the most economically advantageous, for example: price, quality, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, after-sales service, technical assistance, delivery date, delivery period and period of completion.

13.1.2 Issues that are important to the Council in terms of meeting its corporate objectives can be used to evaluate bids. The criteria can include, for example sustainability considerations, support for the local economy, or the use of subcontractors. The bidding organisations' approaches to continuous improvement and setting targets for service improvement or future savings could also be included. All criteria must relate to the subject matter of the contract, be in line with the Council's corporate objectives and must be objectively quantifiable and non-discriminatory.

13.1.3 These criteria should be assessed through either:

- (a) Essential Criteria – assessed on a pass / fail basis, or:
- (b) Technical Questions – assessed on a scored basis.

13.1.4 The procurement documentation should clearly explain the basis of the decision to bidding organisations, making clear how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

## 13.2 Evaluation Panel

13.2.1 The Procurement Officer should establish an evaluation panel for the assessment of any Technical Questions at shortlisting and/or Invitation to Tender stages. Each element of the evaluation may have its own panel, provided that all of the responses to each Technical Question are evaluated by the same panel members.

13.2.2 The panel should have at least two members. The Procurement Officer should act as moderator and may also take part in the evaluation.

Officers should refer to any further guidance in the Advice Centre.

## 13.3 Evaluation

13.3.1 The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the procurement documents provided to bidding

organisations. Evaluation should be conducted in line with Rules 13.1 and 13.2 above, and with regard any guidance detailed in the Advice Centre.

## 13.4 Standards

13.4.1 Relevant British, EU and International standards which apply to the subject matter of the contract and which are necessary to properly describe the required quality must be included with the contract.

Officers should refer to any further guidance in the Advice Centre.

## 14. CLARIFICATION PROCEDURES

14.1 The Council can ask bidding organisations for clarification of any details submitted as part of their bid. However, any such clarification must not involve changes to the basic features of the bidding organisation's submission.

14.2 Clarification questions must be raised via the e-tendering system. Bidders must also be asked to respond via the e-tendering system. In cases where an e-tender exemption has been granted under Rule 10.4, the Council should ensure any clarifications are requested in writing, or by e-mail, and bidding organisations asked to respond by the same means.

14.3 When requesting clarification, the Procurement Officer must follow any additional guidance contained in the Advice Centre.

## 15. AWARD OF CONTRACT, AND DEBRIEFING OF ORGANISATIONS

### 15.1 Award of Contract

15.1.1 The Council is required to notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as timely a fashion as possible. These written notifications should be transmitted via the e-tendering system unless a specific exemption has been granted under Rule 10.4.

15.1.2 Where procurement has been subject to the Public Contract Regulations (2015), the Alcatel Standstill (a 10 day standstill period before a contract can be awarded to allow an unsuccessful bidding organisation an opportunity to challenge the proposed contract award) shall be included in the procurement timetable and observed before the contract can be awarded. Full information regarding the Alcatel Standstill is contained within the Advice Centre.

15.1.3 Decisions on award of contract must be made in accordance with the scheme of delegations in Part 3 of the Constitution.

## 15.2 Debriefing

- 15.2.1 The written notifications sent to bidders, in accordance with Rule 15.1.1 above, shall include feedback explaining the outcome of the evaluation process, with specific reference to the evaluation criteria, so that bidders can understand why they were, or were not, successful.
- 15.2.2 The Procurement Officer should follow any additional guidance in the Advice Centre.

## 15.3 Notification of Awarded Contracts on Contracts Finder

- 15.3.1 For all contract awards with a value of £25,000 (less VAT) or greater, the Procurement Officer shall issue a notice on the Contracts Finder website, giving details of the contract award, as required by Regulations 108 and 112 of the Public Contracts Regulations (2015). This includes any contracts awarded without prior advertisement, as well as contracts awarded via a Further Competition.

## 16. CONTRACT DOCUMENTS

### 16.1 Format of Contract Documents

- 16.1.1 The Council's harmonised procurement documents or conditions issued by a relevant professional body will be used. Where there is any deviation from these, the documents to be used must be reviewed by Legal Services before being issued. These are available from Corporate Procurement or Service Area procurement staff detailed in the Advice Centre.

### 16.2 Contract Signature

- 16.2.1 Contract signature must be undertaken as expressly stated in the contract terms and conditions, this would be:

- (a) Where the contract is in the form of a deed, be made under the Council's seal and attested as required by the Constitution, or:
- (b) Where the contract is in the form of an agreement, either:
  - (i) be signed by at least two officers of the Council authorised as required by the Constitution, or:
  - (ii) be formalised by the sending of an award letter **and** the subsequent issuing of a purchase order.

The Procurement Officer should also follow any guidance on the use of deeds and agreements, and / or electronic signature as found in the Advice Centre.

## 16.3 Legal Services Review of Tenders and Contracts

16.3.1 To ensure the integrity of the procurement process:

- (a) All proposed Invitations to Tender, Requests for Quotation or Quick Quote where they are not in compliance with the County Council's harmonised contract documentation or standard terms and conditions issued by a relevant professional body, will be reviewed by Legal Services.
- (b) Any proposed Invitations to Tender which are the relevant PCRs advertising threshold, and which are deemed by Corporate Procurement to be of medium or high risk, must be reviewed by Legal Services.
- (c) Any proposed contract where there is any deviation from the contract terms included in the invitation to tender must be reviewed by Legal Services.

## 17. APPROVED LISTS AND FRAMEWORK AGREEMENTS

### 17.1 Approved Lists

17.1.1 Approved lists must not be used where they are prohibited under the Public Contracts Regulations (2015).

### 17.2 Framework Agreements

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

17.2.2 The term of a Framework Agreement must not exceed four years, except where:

- (a) a longer duration is permitted under the terms of the light-touch rules for social and other specific services set out in Part 2, Chapter 3 of the Public Contracts Regulations (2015), or
- (b) where exceptional circumstances justify a longer duration, as provided for in Regulation 33(3) of the Public Contracts Regulations (2015).

17.2.3 Where Frameworks are established with several organisations, contracts based on Framework Agreements may be awarded in one of two ways, as follows:

- (b) Where the terms of the agreement are sufficiently precise to cover the particular call-off, by applying the terms laid down in the Framework Agreement without re-opening competition, or:
- (c) Where the terms laid down in the Framework Agreement are not precise or complete enough for the particular call-off, by holding a further competition in accordance with the following procedure:
- inviting the organisations within the Framework Agreement, that are capable of executing the subject of the contract, to submit bids electronically via the Further Competition step on the e-tendering system, with an appropriate time limit for responses, taking into account factors such as the complexity of the subject of the contract,
  - awarding each contract to the bidding organisation who has submitted the best bid on the basis of the relevant Award Criteria set out in the Framework Agreement.

## 18. SUB-CONTRACTORS

18.1 This Rule applies to all contracts:

- (a) for works, where the value is above the PCR's works threshold, or:
- (b) for services, where the value is above the PCR's services threshold, and where the services are to be provided at sites or premises managed by the Council.

18.2 Where this Rule applies, following the decision to award the contract, but before the contract commences, the Procurement Officer must obtain the following details, from the winning supplier(s):

- The names and business addresses of any sub-contractor(s) the supplier intends to utilise in the delivery of any part of the works or services.
- The name and address of the legal representatives of each such sub-contractor.
- Information to verify each sub-contractor's compliance with the mandatory and discretionary grounds for exclusion listed in Regulation 57 of the PCR's 2015.

18.3 Where it is identified, as a result of the above procedure, that a sub-contractor is in breach of any of the mandatory grounds for exclusion, the supplier must be required to dismiss that sub-contractor from any involvement in the contract. The supplier should appoint a replacement sub-contractor, for which the information in 18.2 above must then be obtained and verified.

- 18.4 Where it is identified that a sub-contractor is in breach of a discretionary ground for exclusion, the Council may, at its discretion, require the sub-contractor to be dismissed and a suitable replacement appointed.

## 19. RECORDS

- 19.1 The Public Contracts Regulations (2015) require contracting authorities to maintain the following comprehensive records of procurement activities:
- (a) Any proposed contract details including value
  - (b) Selection decision
  - (c) Justification for use of the selected procedure
  - (d) Names of bidding organisations, both successful and unsuccessful
  - (e) Reasons for selection
  - (f) Reasons for abandoning a procedure.
- 19.2 Prior to the contract being formally awarded, and prior to any bidding organisation(s) being notified, the result of any competitive procurement process must be recorded in a Procurement Acceptance Report with Delegated Decision and submitted to Corporate Procurement. Corporate Procurement will maintain a register of all Procurement Acceptance Reports. Information from Procurement Acceptance Reports will also be used for the tracking of procurement savings, sustainability benefits, and other data.
- 19.3 Following receipt of the correctly completed Procurement Acceptance Report, Corporate Procurement will issue a notification to the Procurement Officer, and other relevant officers. Only once this notification has been issued should the contract be formally awarded.
- 19.4 Following the signature of the contract documents, the Procurement Officer shall ensure a copy of the signed contract particulars is retained on the e-tendering system for future reference and audit purposes.
- 19.5 Where a current contract requires modification and this includes an increase in contract spend, then this must be reported to Corporate Procurement in line with Guidance Note 16, Varying and Modifying Contracts (Advice Centre). Any contract value increase must be accompanied with appropriate Delegated Officer Approval.

Additional records management advice is contained in the Advice Centre.

## 20. PREVENTION OF CORRUPTION & DECLARATION OF INTERESTS

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

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

## 21. CONTRACT MANAGEMENT / MONITORING

- 21.1 All contracts must have an appointed Contract Manager. The responsible Head of Service must ensure a Contract Manager is designated prior to award. All due diligence and monitoring of contract delivery shall be the responsibility of the designated Contract Manager for the entirety of the contract.
- 21.2 The Contract Manager must ensure they track the extension periods and expiry dates of contracts under their responsibility, to ensure that appropriate arrangements are in place to maintain contract coverage where ongoing requirements exist.
- 21.3 Where an original Procurement Acceptance Report does not include all extension options and contract values (for example where there is no current schedule end date), then the Contract Manager must submit the appropriate procurement extension report to identify contract extension period and the additional budget. This must be authorised via the Service's Principal Accountant and recorded with an appropriate Delegated Decision Record.
- 21.4 Contract management, monitoring, evaluation and review must be conducted in line with guidance detailed in the Advice Centre.

## 22. INTERNAL PROVIDERS

- 22.1 Where a Service Area intends to procure goods, services, or works which could potentially be delivered by an in-house provider, the commissioning service shall consult with that in-house provider before proceeding to issue any Invitation to Tender, Request for Quotation, or Quick Quote.
- 22.2 If the in-house provider has the capability and capacity to meet the requirement and can deliver this within the appropriately established budget allocated by the commissioning service, then the in-house service must be used, and no procurement exercise should take place. A procurement exercise via the e-tendering system should only be undertaken if it can be established that the in-house service cannot meet the requirement (or if it has been previously agreed by the appropriate Head of Service that external contractors may be engaged as part of an out-sourcing study or project).
- 22.3 Where an in-house provider is bidding in competition for the provision of goods, works or services, care must be taken to ensure a fair process between the in-house provider and external bidding organisations.



- 22.4 The Procurement Officer should follow any additional guidance in the Advice Centre.

## 23. EXTERNAL BODY GRANT FUNDING

- 23.1 Where a procurement process is funded, in whole or part, by grant funding which has been awarded to the Council by an external funding body, the Procurement Officer must ensure that any rules or grant conditions imposed by the funding body are adhered to, in addition to the requirements of these CPRs.
- 23.2 Where there is any conflict between these CPRs and the rules or conditions imposed by the funding body, the stricter requirement should be followed. Where there is any doubt over which requirement should be followed, the guidance should be sought from Legal & Democratic Services before proceeding.
- 23.3 Where a procurement process is funded, in whole or part, by grant funding, a Grant Authorisation Form must be completed as detailed in the Advice Centre.
- 23.4 Where a Service is bidding for external funding, they must seek advice from Corporate Procurement before including a third-party supplier in their bid application.

## 24. REVIEW AND AMENDMENT OF CPRS

These Contract Procedure Rules shall be reviewed and updated on an annual basis as part of the annual review of the Constitution.

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## Appendix 14

### Part 5D - Code of Practice for Members and Officers Dealing with Planning Matters

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## Code of Practice for Members and Officers Dealing with Planning Matters

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

This Code applies to Members at all times when involving themselves in the planning process. This includes when taking part in the decision-making meetings of the Council in exercising the functions of the Planning Committee, or (where appropriate) when involved on less formal occasions, such as meetings with officers or the public and consultative meetings.

### 1. Introduction

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

- (d) Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
  - (e) Members may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
  - (f) Members should respect the impartiality and integrity of officers.
- 1.4 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgment and for justifiable reasons.
- 1.5 This Code of Practice sets out practices and procedures that members and officers of the County Council shall follow when involved in planning matters. Planning matters include the consideration of planning and associated applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 1.6 This code is largely based upon the Local Government Association's Guidance entitled *Probity in Planning for councillors and officers* published in April 2013, which takes account of the ethical framework for local government. It takes account of the Royal Town Planning Institute's Code of Professional Conduct and advice issued by the ~~Audit Commission, the~~ Commissioners for Local Administration in England and the National Planning Forum. It complements the Council's Code of Conduct for Members. This code is consistent with meeting the requirements of Article 6 of the European Convention on Human Rights which confers a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations. In respect to the advice contained at paragraph 7 regarding Member engagement in pre-application advice, account has been taken of advice issued by the Planning Advisory Service, the Standards Board for England and the LGA advice leaflet 'Positive Engagement' issued in 2009.
- 1.7 Failure to follow this code without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected members and officers. Breaches of this Code may also amount to breaches of the Council's Code of Conduct for Members. If in doubt about what course of action to take, a member or officer should seek the advice of the Council's Monitoring Officer.

## **2. The Role and Conduct of Members and Officers**

- 2.1 Members and officers have different, but complementary roles. Both serve the public but members are responsible to the electorate, while officers are responsible to the Council as a whole.

- 2.2 Whilst members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to members involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.

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

### 3. Declaration of Interests

- 3.1 The Council's Code of Conduct advises members on the disclosure of interests and must be followed by Members at all times.
- 3.2 Where a member has a Disclosable Pecuniary Interest in an item of business, the member shall declare it at the earliest opportunity, must not participate in any discussion or vote taken on the matter at the meeting, must leave the meeting where the matter is being considered and must not try to influence those making the decision or take any part in the consideration or determination of the matter.
- 3.3 Where a member has an Other Relevant Interest in an item of business, the member shall declare it at the earliest opportunity. The member may make a representation on the item but will not be permitted to participate in any discussion or vote taken on the matter at the meeting. The member must leave the meeting once the representation has been made to avoid influence on those making the decision.
- 3.4 It is important that Members of Planning Committee do not fetter their discretion and therefore their ability to participate in planning decision-making by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- 3.5 Rules in relation to bias and predetermination were introduced by section 25 of the Localism Act 2011. The rules apply if there is an issue about the validity of a decision and it is relevant to that issue whether a member had or appeared to have a closed mind when making the decision. Under the rules a member is not to be taken to have had, or appeared to have had, a closed mind when making the decision just because they had previously done anything that directly or indirectly indicated the view the member took, or would or might take, in relation to a matter relevant to the decision.
- 3.6 The principle that members must not participate in decisions where they are perceived to be biased remains. An example would be a member who was a governor of a school which was putting forward a planning application.
- 3.7 Members should not act as agents for persons pursuing planning matters within their authority. If they submit their own proposal to the authority on which they serve, they should play no part in its consideration. When submitting proposals on behalf of themselves, the Member shall inform the Monitoring Officer of the submission.



- 3.8 Officers must always act impartially. An officer, who believes they may be seen to have an interest in a planning matter shall declare it at the earliest opportunity to the Head of Planning and the Monitoring Officer and have no further involvement in the processing or consideration of that matter save for those instances set out at paragraph 3.3 above.
- 3.9 Planning officers shall never act as agents for persons pursuing a planning matter within the county or one outside significantly affecting the county.

#### **4. 'Dual-Hatted Members'**

- 4.1 The Council's Code of Conduct does not automatically prevent members from considering the same issue at more than one tier of local government, including speaking and voting at both tiers.
- 4.2 For example, if a member is also a member of a parish council, and the parish council is consulted on a planning application to be determined by the Planning Committee, the member may participate in the discussion and vote at the parish council meeting; but it would be prudent to inform the parish council that the member will reconsider the matter taking into account all the information that is put before the Planning Committee. At the subsequent meeting of the Planning Committee the member should declare that as a member of the parish council, they have already expressed a view on the matter, but make it clear that this view does not bind the member who will consider the matter afresh. The member will be free to participate in the debate and vote on the matter.
- 4.3 However, if the Planning Committee considers a planning application by an authority or body on which a member serves, then the member should declare an other relevant interest, take no part in the discussion and determination of the proposal and leave the meeting room while the discussion and voting takes place.

#### **5. Development Proposed by the Council or a Council Owned Company**

- 5.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.
- 5.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.
- 5.3 Members of the planning committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare an other relevant interest, take no part in the discussion and determination of that

proposal and leave the meeting room while the discussion and voting takes place.

- 5.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

## **6. Lobbying of and by Members**

- 6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local member or members of a planning committee. However, reacting to lobbying can lead to the impartiality of a member being called into question and require that member to declare an interest.
- 6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees and neighbours and the assessment of the case by the planning officer all need to be considered before a member is in a position to make a balanced judgement on the merits of the case. Members should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.
- 6.3 The time for individual members of the planning committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 6.4 A planning committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, planning committee members should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if members do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Members should make clear that they reserve their final decision on a proposal until the committee meeting.
- 6.5 Members of the planning committee shall not, in general, organise support or opposition for a proposal, or lobby other members (other than when addressing the planning committee). Members of the Council shall not put improper pressure on officers for a particular recommendation.
- 6.6 The local member who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting but not vote. The

member of an adjacent division substantially affected by the proposal shall, at the discretion of the Chair of the Planning Committee, be allowed to attend and speak but not vote. A local member who has a disclosable pecuniary interest or other relevant interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about their position.

- 6.7 If a member of the Planning Committee identifies themselves with a group or individual campaigning for or against an application, they shall declare an Other Relevant Interest and not vote or decide on the matter. However, that member shall be given the opportunity to address the Committee.
- 6.8 Members of a Planning Committee must be free to vote as they consider appropriate on planning matters. Political group meetings prior to the Planning Committee meeting shall not be used to decide how members should vote at the meeting.

## **7. Pre-and Post-Application Discussions and Negotiations**

- 7.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is actively encouraged in accordance with the Council's protocol on pre-application advice. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.
- 7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the officer only, and are provisional.
- 7.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 7.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 7.5 Members need to preserve their role as impartial decision makers and should not ordinarily take part in pre-or post-submission discussions and negotiations with applicants regarding development proposals. The exception to this is for those major schemes which are considered to be of importance to the County or schemes that are likely to be highly contentious and are therefore subject to the Council's Pre-Application Member Engagement protocol which provides for structured arrangements with officers and a prospective developer.

Members must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.

- 7.6 Members may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by members should be provided to the officers dealing with the application.

## 8. Officer Reports to Committee

- 8.1 The Head of Planning will submit written reports to the Planning Committee on planning applications to be determined by the County Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Head of Planning shall include in their report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with their own comments. The reports will include a summary of representations made about the application including those made by the applicant. The Head of Planning in their report will give a reasoned assessment of the proposals and a justified recommendation.
- 8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 8.3 The Head of Planning will make available for inspection by members the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

## 9. The Decision Making Process

- 9.1 Members shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.

9.2 Members shall also recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

- 9.3 Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.
- 9.4 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 9.5 Where the Planning Committee decide to adopt the recommendation of the Head of Planning, the reasons contained in their report will be minuted, together with any additional reasons determined by the Committee.
- 9.6 Where the Planning Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Head of Planning, agreement shall be reached at the meeting on the reasons for that decision. They shall be fully minuted by the Head of Legal and Democratic Services.
- 9.7 Members who are not present at the meeting for the duration of the planning officers presentation, any subsequent representations and the entire Member debate shall not (save at the discretion of the Chair) be entitled to vote on the matter under consideration.

## 10. Site Visits by the Committee

- 10.1 A site visit is only likely to be necessary if:
- (a) the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers;
  - (b) the comments of the applicant and objectors cannot be expressed adequately in writing; or
  - (c) the proposal is particularly contentious.
- 10.2 Site visits will be organised in accordance with the following procedures:
- (a) The Head of Planning and Housing agree the need for a site visit in consultation with the Chair of the meeting.
  - (b) The Head of Legal and Democratic Services will invite the local County Councillor to site visits. Where a proposal would have significant direct impact upon an adjacent electoral division, at the discretion of the Chair of the Planning Committee, the local County Councillor for the adjacent division will also be invited.

- (c) The Head of Planning and Housing will contact the applicant to make arrangements for the site visit where appropriate. As part of this contact the Head of Planning and Housing will invite the applicant to raise any safeguarding or other logistical issues associated with the visit as may be appropriate. This will ensure that those visiting the site have permission to enter private land if required and to enable the visit to be undertaken in a controlled manner, cogent of any safeguarding or wider logistical issues raised by the applicant.
- (d) The role of the applicant prior to the site visit is to make the Council and its representatives aware of any specific requirements in relation to the site visit, for example, the need to sign in before entering the site, wear appropriate PPE, visit during or outside certain hours.
- (e) The role of the applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The applicant shall not participate in any discussions on site but may be asked to provide factual information.
- (f) Objectors will not normally be invited to attend a site visit or participate in any discussions on site.
- (g) On assembling at the site, at the time specified, the Chair (or lead officer in the absence of Chair and Vice Chair) will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The Head of Planning and Housing, or their representative, will explain the application as it relates to the site and relevant viewpoints. The Head of Planning and Housing, or their representative, will where practicable, make themselves known to the applicant, or their representative, and ensure the visiting party complies with all health and safety and safeguarding requirements as notified by the applicant. Following any questions to the Head of Planning and Housing (or their representative), the Chair will bring the site visit to a close.
- (h) When a site visit is held prior to the meeting of the Planning Committee it is desirable that all members attending the Planning Committee should also attend the site visit. Members voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application.
- (i) In all cases the safety of those engaged in the site visit, and anyone else who may be at the site and affected by the visit, is of paramount importance. In cases where Officers consider a proposal is likely to generate hostility as part of a site visit or involve potential safeguarding matters the Head of Planning and Housing or their representative will

liaise with the [appropriate Council representative](#) to undertake a risk assessment ahead of the planned visit. Appropriate control measures will be identified as part of the risk assessment and discussed with the Chair in advance of the visit.

## 11. Representations on Planning Applications

- 11.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee. Members of the Committee will be given the opportunity to inspect all letters received before the decision on the application is made.
- 11.2 There will be occasions when applicants, supporters, objectors, Ward Members and Parish/Town Council representatives or some of these, may wish to make representations in person to the Planning Committee. In such circumstances the following procedure will normally apply:
- (a) The applicant and any supporters will be informed that the application and all supporting documents will be taken into account. The objectors will be informed that their written representations will be taken into account. The applicant, supporters, objectors, Ward Members and Parish/Town Council Representative will also be informed that they have the right to attend the Committee meeting and make representations at the meeting. They will be asked to indicate whether they wish to do so and, if so, will be invited to the meeting at which the decision is to be made. However, except for Ward Members, any person wishing to exercise their right to make representations in person will be required to confirm by registering their intention to speak by noon two working days before the Committee Meeting to allow technical arrangements to be put in place. Persons registering their intention to speak after this time will only be permitted to speak at the discretion of the Chair.
  - (b) Ward Members and the Parish/Town Council representative will be afforded an appropriate amount of time (at the discretion of the Chair) within which to address the Committee.
  - (c) Each other group of speakers (objectors and applicants/supporters) will be allowed a maximum of five minutes (except at the discretion of the Chair) to address the committee. In the event that more than one person wishes to speak for or against a proposal the time will be divided. Groups of speakers will be encouraged to appoint a spokesperson and for this to be agreed in advance of the meeting where possible
  - (d) At the meeting the Officer will present their report first.

- (e) The Parish/Town Council representative will then address the Committee.
- (f) The Ward Member will then address the Committee.
- (g) The objectors will then make their representations, and may be asked questions by the Committee but will not be permitted to make representations more than once.
- (h) The applicant/supporter will then make their representations and may be asked questions by the Committee but will not be permitted to make representations more than once.
- (i) Officers may comment on the representations and the merits of the application.
- (j) The Committee will proceed to debate the application and make a decision. The minute will include the reasons for the decision.
- (k) New documents should not be circulated to the Committee; councillors may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising.

11.3 It is important that Members of planning committees do not allow members of the public to communicate with them during the committee's proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.

11.4 Members of planning committees should also not participate in social media or exchanges by texting as a member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.

## **12. Review of Decisions**

- 12.1 The Audit Commission's Report, 'Building in Quality', recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.
- 12.2 Visits to application sites previously considered by the County Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.



- 12.3 Attendance at the review site visits shall be restricted to members of the committee and the local County Council members.

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## Appendix 15

### Constitution Review Changes

#### Part 2 – Articles of the Council

Original Reference	New Reference	Officer	Reason for Change	Previous wording	New wording
Part 2, page 2-9, 4.2(a)	Part 2, page 2-9, 4.2(a)	Mike Allum	Local Development Frameworks no longer exist.	County Durham Local Development Framework (Plans and alterations that together form the Development Plan)	County Durham Plan (Plans and alterations that together form the Development Plan)
Part 2, page 2-9 4.2(a)	Part 2, page 2-9, 4.2(a)	Mike Allum	The Housing Strategy is already part of the framework. It is understood that this was agreed following local government reorganisation. Given the close links between the Housing and the Homelessness Strategy, it is considered appropriate for both	N/A - new wording.	4.2(a) vi. Homelessness Strategy

			documents to be approved by Council.		
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**Part 3A Matters Reserved to the Council and Terms of Reference and Delegation of Duties to Committees & Sub-Committees of the Council**

<b>Original Reference</b>	<b>New Reference</b>	<b>Officer</b>	<b>Reason for Change</b>	<b>Previous wording</b>	<b>New wording</b>
1 Overview and Scrutiny 1.1(n)	1 Overview and Scrutiny 1.1(n)	Michael Turnbull	They are not additional members.	The Chair and Vice-Chair of this main scrutiny committee, shall be additional members of all other Scrutiny Committees.	The Chair and Vice Chair of the Corporate Overview and Scrutiny Management Board, shall be members of all other Scrutiny Committees.
1.5 Environment and Sustainable Communities Overview and Scrutiny Committee	1.5 Environment and Sustainable Communities Overview and Scrutiny	Helen Bradley	Replacement of the previous Council Plan objectives with the current ones.	(a) physical environment that will contribute to good health (b) Our towns and villages will be vibrant, well used, clean, attractive and safe. (c) People will have good access to workplaces, services, retail and leisure opportunities.	(a) Creating a physical environment that will contribute to good health. (b) Working with others to achieve a carbon neutral county. (c) Reducing the impact of waste and pollution on our environment. (d) Protecting, restoring and

Original Reference	New Reference	Officer	Reason for Change	Previous wording	New wording
					sustaining our natural environment for the benefit of future generations.
2.1 Audit Committee	2.1 Audit Committee	Tracy Henderson	Substantive changes to the Audit Committee Terms of Reference following CIPFA Guidance.	Part 3A is appended at Appendix 3 and the changes are shown at paragraph 2.1.	Part 3A is appended at Appendix 3 and the changes are shown at paragraph 2.1.
2, page 3A-12, 2.4	2, page 3A-12, 2.4	Helen Bradley	Inaccuracy	The Statutory Licensing Committee is a sub-committee of the General Licensing and Registration Committee and is comprised of 15 Members of the Council drawn from the 27 members of the General Licensing and Registration Committee. who, whilst predominantly serving the Statutory Licensing Committee and its sub	The Statutory Licensing Committee comprises of 15 Members of the Council drawn from the 27 members of the General Licensing and Registration Committee. who, whilst predominantly serving the Statutory Licensing Committee and its sub committees, can when occasion demands also serve on other sub committees of the

Original Reference	New Reference	Officer	Reason for Change	Previous wording	New wording
				committees, can when occasion demands also serve on other sub committees of the General Licensing and Registration Committee. The functions discharged by the Statutory Licensing Committee are:	General Licensing and Registration Committee. The functions discharged by the Statutory Licensing Committee are:
3. Other Bodies 3.2 Chief Officer Appointment Committee	3. Other Bodies 3.2 Chief Officer Appointment Committee	Helen Bradley	Amendment to Terms of reference to formalise the convention that the Leader and Deputy Leader of the Council are Chair and Vice-Chair of the Committee	Comprised of 11 Members of the Council including the Leader and Deputy Leader.....	Comprised of 11 Members of the Council including the Leader and Deputy Leader (who will be the Chair and Vice-Chair respectively of the Committee)
4. Joint Arrangements 4.1 Health and Wellbeing Board	4. Joint Arrangements 4.1 Health and Wellbeing Board	Michael Turnbull	There have been a number of changes to the membership of the Health and Wellbeing Board, to include other representatives, and	Part 3A is appended to the report at Appendix 3 and the proposed changes are marked using tracked changes.	Part 3A is appended to the report at Appendix 3 and the proposed changes are marked using tracked changes.

Original Reference	New Reference	Officer	Reason for Change	Previous wording	New wording
			to update the names of some organisations and the role and functions of the Committee.		
N/A - new para	4.10 The Safe Durham Partnership	Joanne Waller	The Terms of Reference for the Safe Durham Partnership were not included in the Constitution previously.	N/A.	Part 3A is appended to the report at Appendix 3 and the proposed changes are marked using tracked changes.

### Part 3C – Delegations to Officers

#### Table of Contents

Table of Contents	Table of Contents	Mark Readman	Change of job title	Head of Highway Services	Head of Highways
Table 7	Table 7				

Table 2 – Delegations to the Chief Executive

Delegations to the Chief Executive  Table 2	Delegations to the Chief Executive  Table 2	Michael Turnbull	It is proposed to update Table 2 to reflect the Chief Executive's role as Acting Returning Officer at UK Parliamentary elections for completeness and to ensure the scheme of delegation reflects the Association of Electoral Administrators Guidance.	N/A - new para	7. To act as Acting Returning Officer for UK Parliamentary Elections in accordance with Section 28 of the Representation of the People Act 1983.
Delegations to the Corporate Director of Resources  Table 8	Delegations to the Chief Executive  Table 2	Chief Executive	Change in Job title with effect from 1 May  Delegations to the Director of Legal & Democratic Services will transfer when the postholder is realigned to report directly to the Chief Executive with effect from 1 May 2024	Head of Legal & Democratic Services	Director of Legal & Democratic Services



REG

Original Reference	New Reference	Officer	Reason for Change	Previous wording	New wording
Table 3: Delegations to the Director for Regeneration, Economy and Growth	Table 3: Delegations to the Director for Regeneration, Economy and Growth	Mike Allum	Responsibilities in relation to the conservation of the built environment have now migrated across to the Head of Planning and Housing/REG.	N/A	Add bullet point:  "Conservation"
Matters Delegated to the Head of Planning and Housing	Matters Delegated to the Head of Planning and Housing	Mike Allum	Responsibilities in relation to the conservation of the built environment have now migrated across to the Head of Planning and Housing/REG.	N/A	Add, after paragraph 24:  25. To designate any areas to be of special architectural or historical interest as conservation areas; to review and amend the boundaries and conclude Character appraisals and to formulate and prepare proposals for the preservation and

					enhancement of those areas.
Matters Delegated to the Head of Planning and Housing  Para 36	Matters Delegated to the Head of Planning and Housing  Para 37	Joanne Waller	Amended wording to remove 'all' from 'all matters'.	The management of all matters required to ensure the Council carries out its statutory duties as a local housing authority as prescribed in:	The management of matters required to ensure the Council carries out its statutory duties as a local housing authority as prescribed in:
The following matters are, in addition, delegated to the Head of Culture and Support	The following matters are, in addition, delegated to the Head of Culture, Support and Tourism	Alison Clark	Word change / service name change	The following matters are, in addition, delegated to the Head of Culture and Support	The following matters are, in addition, delegated to the Head of Culture, Support and Tourism

A&HS

<b>Original Reference</b>	<b>New Reference</b>	<b>Officer</b>	<b>Reason for Change</b>	<b>Previous wording</b>	<b>New wording</b>
Table 5 – Delegations to the Director of Public Health	Table 5 – Delegations to the Director of Public Health	Lauren Jones (had been contacted by Public Health)	It is covered in 1C so they don't think a separate line is required.	12. To discharge the Council's responsibilities in relation to communicable and infectious diseases,	N/A. To remove clause 12.

				including healthcare acquired infections.	
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CYPS

<b>Original Reference</b>	<b>New Reference</b>	<b>Officer</b>	<b>Reason for Change</b>	<b>Previous wording</b>	<b>New wording</b>
Table 6	Table 6	Keith Forster	Following review of Table 6 by officers in CYPS, it is advised that it would be more helpful if the respective powers were set out in more detail for clarification. Consequently, Table 6 has been substantively rewritten. However, the amendments do not include the delegation of any new powers and relate to existing functions already discharged by the relevant officers.	N/A – Original Table 6 appended with tracked changes.	N/A – Original Table 6 appended with tracked changes.

NCC

Original Reference	New Reference	Officer	Reason for Change	Previous wording	New wording
Table 7 – Delegations to the Corporate Director of Neighbourhoods and Climate Change  Executive Functions	Table 7 – Delegations to the Corporate Director of Neighbourhoods and Climate Change  Executive Functions	Steve Bhowmick	Remove wording	Conservation, Archaeology and Ecology	Archaeology and Ecology
Table 7 – Delegations to the Corporate Director of Neighbourhoods and Climate Change  Executive Functions	Table 7 – Delegations to the Corporate Director of Neighbourhoods and Climate Change  Executive Functions	Joanne Waller	Add and remove bullet points to cover relevant delegations.	N/A	Add: <ul style="list-style-type: none"> <li>• Safer communities</li> <li>• Private Sector Housing regulation</li> <li>• Public Health Protection and infectious disease outbreak control</li> <li>• Special Criminal Investigations including</li> </ul>

					tobacco control  Remove: <ul style="list-style-type: none"> <li>Operational Community Safety</li> </ul>
The following matters are, in addition, delegated to the Head of Environment:  Para 4	The following matters are, in addition, delegated to the Head of Environment:  Para 4	Joanne Waller	Change wording to reflect what happens in practice.	4. To exercise, in consultation with the Head of the Legal and Democratic Services the Council's enforcement functions including the institution of legal proceedings under all legislation related to the Executive functions in paragraph 1 of Table 7.	4. To exercise, in consultation with the Head of Legal and Democratic Services (Director of Legal & Democratic Services from 1 May 2024), the Council's enforcement functions including, where appropriate, the institution of legal proceedings under all legislation related to the Executive functions in paragraph 1 of Table 7.
The following matters are, in addition, delegated to the Head of Environment:	The following matters are, in addition, delegated to the Head of Environment:	Steve Bhowmick	Remove wording. Both of the above matters refer to responsibilities in relation to the	9. To designate any areas to be of special architectural or historical interest as conservation areas;	No text – remove para 9 in its entirety.

Para 9	Para 9		conservation of the built environment, which has now migrated across to the Head of Planning and Housing (REG).	to review and amend the boundaries and conclude Character appraisals and to formulate and prepare proposals for the preservation and enhancement of those areas.	
The following matters are, in addition, delegated to the Head of Environment:  Para 12	The following matters are, in addition, delegated to the Head of Environment:  Para 12	Joanne Waller	Change wording to reflect what happens in practice.	To exercise, in consultation with the Head of the Legal and Democratic Services the Council's enforcement functions, including the institution of legal proceedings, under all legislation relevant to the role of Head of Highway Services.	To exercise, in consultation with the Head of Legal and Democratic Services(Director of Legal & Democratic Services from 1 May 2024),, the Council's enforcement functions, including, where appropriate, the institution of legal proceedings, under all legislation relevant to the role of Head of Highways.

<p>The following matters are, in addition, delegated to the Head of Community Protection:</p> <p>Para 24</p>	<p>The following matters are, in addition, delegated to the Head of Community Protection:</p> <p>Para 24</p>	<p>Joanne Waller</p>	<p>Change wording to reflect what happens in practice.</p>	<p>To exercise, in consultation with the Head of the Legal and Democratic Services the Council’s licensing, approval, registration and enforcement functions, including the institution of legal proceedings under legislation relevant to the role of Head of Community Protection. This will include all forms of Licensing, Environmental Health, Statutory nuisance, Contaminated land, Food Safety, Consumer Protection, Trading Standards and Animal Welfare.</p>	<p>To exercise, in consultation with the Head of Legal and Democratic Services(Director of Legal &amp; Democratic Services from 1 May 2024),, the Council’s licensing, approval, registration and enforcement functions, including, where appropriate, the institution of legal proceedings under legislation relevant to the role of Head of Community Protection. This will include all forms of Licensing, Environmental Health, Statutory nuisance, Contaminated land, Food Safety, Consumer Protection, Trading Standards and Animal Welfare.</p>
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<p>The following matters are, in addition, delegated to the Head of Community Protection:</p> <p>Para 27</p>	<p>The following matters are, in addition, delegated to the Head of Community Protection:</p> <p>Para 27</p>	<p>Joanne Waller</p>	<p>To clarify the appropriate legislation.</p>	<p>To authorise suitably qualified and competent staff within the Environment, Health and Consumer Protection Division and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under the legislation falling within the role of Head of Community Protection.</p>	<p>To authorise suitably qualified and competent staff within the Community Protection Service and other persons acting on behalf of the Council, for the purposes of discharging duties and powers relating to the Executive Functions in paragraph 1 of Table 7 and under the legislation falling within the role of Head of Community Protection.</p>
<p>The following matters are, in addition, delegated to the Head of Community Protection:</p> <p>Para 30</p>	<p>The following matters are, in addition, delegated to the Head of Community Protection:</p> <p>Para 30</p>	<p>Joanne Waller</p>	<p>Remove 'Power'</p>	<p>Power to agree transfers and assignments under health and safety legislation to change Enforcing Authority responsibilities.</p>	<p>To agree transfers and assignments under health and safety legislation to change Enforcing Authority responsibilities.</p>
<p>The following matters are, in addition,</p>	<p>The following matters are, in addition,</p>	<p>Joanne Waller</p>	<p>Remove 'Power'</p>	<p>Power to appoint Proper Officers and</p>	<p>To appoint Proper Officers and alternate</p>



delegated to the Head of Community Protection: Para 31	delegated to the Head of Community Protection: Para 31			alternate Proper Officers for the Authority for matters relating to Public Health, Port Health and the Control of Infectious Disease.	Proper Officers for the Authority for matters relating to Public Health, Port Health and the Control of Infectious Disease.
The following matters are, in addition, delegated to the Head of Community Protection: Para 32	The following matters are, in addition, delegated to the Head of Community Protection: Para 32	Joanne Waller	Remove 'Power'	Power to appoint Public Analyst, Agricultural Analyst and Food Examiner for the Council.	To appoint Public Analyst, Agricultural Analyst and Food Examiner for the Council.
The following matters are, in addition, delegated to the Head of Community Protection:	The following matters are, in addition, delegated to the Head of Community Protection:  New paragraphs 33, 34, 35 and 39.	Joanne Waller	To clarify the specific functions undertaken by the Community Protection Service in relation to private sector housing.	N/A – new paragraphs.	33. The management of matters require to ensure the Council carries out its statutory duties as a local housing authority as prescribed in: <ul style="list-style-type: none"> <li>• Housing Act 1985</li> <li>• Housing Act 1996</li> <li>• Housing Act 2004</li> </ul>

					<ul style="list-style-type: none"><li>• Local Government and Housing Act 1989</li><li>• Localism Act 2011</li><li>• Any other relevant statute or government guidance relating to private sector housing.</li></ul> <p>34. To exercise the Council's regulatory functions in relation to the regulation of private sector housing, including:</p> <ul style="list-style-type: none"><li>a. To exercise the Council's enforcement powers under the legislation relating to private sector housing;</li></ul>
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					<p>b. Licensing of Houses in Multiple Occupation;</p> <p>c. To exercise the functions of the Council under Part X of the Housing Act 1985 and Part IV, Chapter 3, and Part VII of the Housing Act 2004 in relation to overcrowding.</p> <p>35. Act under and in respect of Sections 59-63, 76, 79 Building Act 1984.</p> <p>39. Determine suitability of a person to carry on business as a scrap metal dealer and to revoke</p>
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					existing licences and impose licence conditions in accordance with the Scrap Metal Dealers Act 2013, as appropriate.
<p>Table 7 – Delegations to the Corporate Director of Neighbourhoods and Climate Change</p> <p>The following matters are, in addition delegated to the Head of Highway Services:</p> <p>Clause 11</p>	<p>Table 7 – Delegations to the Corporate Director of Neighbourhoods and Climate Change</p> <p>The following matters are, in addition delegated to the Head of Highways:</p> <p>Clause 11</p>	Mark Readman	Service name change and job title change	11. To authorise suitably qualified and competent staff within Highway Services and other persons acting on behalf of the Council, for the purposes of discharging duties and powers regulatory and enforcement functions under the legislation relevant to the role of Head of Highway Services.	11. To authorise suitably qualified and competent staff within Highways and other persons acting on behalf of the Council, for the purposes of discharging duties and powers regulatory and enforcement functions under the legislation relevant to the role of Head of Highways.
<p>Table 7 – Delegations to the Corporate Director of Neighbourhoods and Climate Change</p>	<p>Table 7 – Delegations to the Corporate Director of Neighbourhoods and Climate Change</p>	Mark Readman	Change of word	9(c) determine applications for licences, permits and consents in connection with vehicle crossings, builders skips, use of	9(c) determine applications for licences, permits and consents in connection with vehicle crossings, builders skips, use of

<p>The following matters are, in addition delegated to the Head of Highway Services:</p>	<p>The following matters are, in addition delegated to the Head of Highways:</p>			<p>traffic signs, placing/licensing amenities in the highway, erection of emergency barriers, scaffolding, hoardings and the deposition of building materials on the public highway, excavations and openings in the highway, vaults and cellars, street works and permits for heavy trailers;</p>	<p>traffic signs, placing/licensing amenities in the highway, erection of emergency barriers, scaffolding, hoardings and the deposition of building materials on the public highway, excavations and openings in the highway, vaults and cellars, street works and permits;</p>
<p>Table 7 – Delegations to the Corporate Director of Neighbourhoods and Climate Change</p> <p>The following matters are, in addition delegated to the Head of Highway Services:</p>	<p>Table 7 – Delegations to the Corporate Director of Neighbourhoods and Climate Change</p> <p>The following matters are, in addition delegated to the Head of Highways:</p>	<p>Mark Readman</p>	<p>Change of job title</p>	<p>12. To exercise, in consultation with the Head of the Legal and Democratic Services the Council’s enforcement functions, including the institution of legal proceedings, under all legislation relevant to the role</p>	<p>12. To exercise, in consultation with the Head of the Legal and Democratic Services the Council’s enforcement functions, including the institution of legal proceedings, under all legislation relevant to the role of Head of Highways.</p>

Clause 12	Clause 12			of Head of Highway Services.	
Table 7 – Delegations to the Corporate Director of Neighbourhoods and Climate Change  The following matters are, in addition delegated to the Head of Highway Services:  Clause 13	Table 7 – Delegations to the Corporate Director of Neighbourhoods and Climate Change  The following matters are, in addition delegated to the Head of Highways:  Clause 13	Mark Readman	Change of job title	13. In consultation with the Head of Legal and Democratic Services, to make, confirm, amend, vary, modify, consolidate and revoke orders under the legislation relevant to the role of Head of Highway Services.	13. In consultation with the Head of Legal and Democratic Services, to make, confirm, amend, vary, modify, consolidate and revoke orders under the legislation relevant to the role of Head of Highways.
Head of Partnerships and Community Engagement Para 19	Head of Partnerships and Community Engagement  Para 19	Gordon Elliot	Proposed new wording	To plan the requirements for welcoming and supporting refugees and individuals seeking asylum, including capacity within the County as part of the Government Migration Programme.	To plan and deliver requirements for welcoming and supporting refugees and individuals seeking asylum, including capacity within the County as part of the Government Migration Programme.

Appendix 1 to Table 7 Delegation of Licensing Act 2003 responsibilities	Appendix 1 to Table 7 Delegation of Licensing Act 2003 responsibilities	Ian Harrison	The Licensing Act 2003 changed a number of years ago and it is no longer just the police who can object to temporary event notices, therefore the wording needs to be amended. In addition, the word 'representation' has been replaced with 'objection notice' to reflect the terminology contained in the Act.	Determination of a police representation to a temporary event notice.	Determination of a temporary event notice following receipt of an objection notice.

Resources

<b>Original Reference</b>	<b>New Reference</b>	<b>Officer</b>	<b>Reason for Change</b>	<b>Previous wording</b>	<b>New wording</b>
Table 8 – Delegations to the Corporate Director of Resources  Specific and Non-Executive Delegations  Para 1	Table 8 – Delegations to the Corporate Director of Resources  Specific and Non-Executive Delegations  Para 1	Angela Nicholson	The Corporate Director of Resources has delegated authority to terminate employment of staff by reason of early retirement with voluntary redundancy where there is a cost to the Council associated with the early release of pension benefits in consultation with the relevant Portfolio Holder. It is proposed to amend the punctuation to clarify that the Corporate Director of Resources also has the authority to terminate	1. To authorise the termination of employment of staff by reason of early retirement with voluntary redundancy where there is a cost to the Council associated with the early release of pension benefits. This will be in consultation with the Cabinet Portfolio Member for Corporate Resources and Rural Issues.	1. To authorise the termination of employment of staff by reason of early retirement with voluntary redundancy. Where there is a cost to the Council associated with the early release of pension benefits, this will be in consultation with the relevant Portfolio Holder.



			employment by reason of early retirement or voluntary redundancy where there is <i>no</i> cost to the Council. It is also proposed to update the reference to the correct Portfolio Holder.		
Table 8 Delegations to the Corporate Director of Resources  Transactional and Customer Services  N/A - new clause	Table 8 Delegations to the Corporate Director of Resources  Transactional and Customer Services  Clause 12	Victoria Murray	In August 2023, a proposal to introduce a flat rate weekly charge of £5 per week for those in residential care and £7.50 per week for those living in the community for the provision of an appointeeship service. This was implemented from 1 October 2023. It is proposed to include a delegated power to the Corporate Director of Resources to be able to review	N/A	12. Establishing, reviewing and amending a charging policy for those for whom the Deputy and Appointeeship Team act as an appointee.

			and amend the policy.		
Table 8 – Delegations to the Corporate Director of Resources  Corporate Finance and Commercial Services  Clause 18	Table 8 – Delegations to the Corporate Director of Resources  Corporate Finance and Commercial Services  Clause 19	Joanne McMahon	"simply to provide clear understanding of elements in scope".	20. To exercise MTFP, annual budget setting, budgetary control and final accounts functions referred to the Corporate Director under the Council's Financial Procedure Rules.	19. To exercise MTFP, annual budget setting, budgetary control and final accounts functions (Revenue and Capital) referred to the Corporate Director under the Council's Financial Procedure Rules.
Table 8 – Delegations to the Corporate Director of Resources  Corporate Finance and Commercial Services  Clause 22	Table 8 – Delegations to the Corporate Director of Resources  Corporate Finance and Commercial Services  Clause 23	Joanne McMahon	Minor wording change for clarity.	22. The operation of the Council's accounting systems.	23. The operation and continuous improvement of the Council's accounting systems.
Table 8 – Delegations to the Corporate Director of Resources  Corporate Finance and Commercial Services	Table 8 – Delegations to the Corporate Director of Resources  Corporate Finance and Commercial Services	Joanne McMahon	Wording change for clarity.	23. To authorise the release of funds from contingencies as set out in the Revenue Budget and to forecast and to manage the Council's Collection Funds,	24. To authorise the release of funds from contingencies as set out in the Revenue Budget.

Clause 23	Clause 24			making adjustments to payments to principal precepting bodies as appropriate.	
N/A – new clause	Table 8 – Delegations to the Corporate Director of Resources  Corporate Finance and Commercial Services  Clause 25	Joanne McMahon	Regulations made under the Local Government Finance Act 1992 requires each billing authority to calculate its 'council tax base' for the following financial years so she believes reference to tax base setting should be included within their setting.	N/A	25. To set the Council Tax Base at Local Council level and to forecast and manage the Council's Collection Funds, making adjustments to payments to principal precepting bodies as appropriate.
N/A – new clause	Table 8 – Delegations to the Corporate Director of Resources  Corporate Finance and Commercial Services  Clause 27	Joanne McMahon	This element is the responsibility of the Head of Corporate Finance and Commercial Services rather than the Head of Pensions, so should be moved to the correct section (removed from 36(g) 3C-43).	N/A	27. To maintain all accounting records in relation to the Pension Fund, including the preparation of the Pension Fund Statement of Accounts and Annual Report.

Table 8 – Delegations to the Corporate Director of Resources  Pensions  Clause 36(g)	Table 8 – Delegations to the Corporate Director of Resources  Pensions  Clause 37(g)	Joanne McMahon	See above.	(g) To maintain all necessary accounts and records in relation to the Pension Fund, including the preparation of the Annual Accounts;	(g) To maintain all necessary account and records in relation to the Pension Fund.
Table 8 – Delegations to the Corporate Director of Resources  Pensions  Clause 36(o)	Table 8 – Delegations to the Corporate Director of Resources  Pensions  Clause 37(o)	Paul Cooper	It is considered that something more general is included in respect of Pension Appeals. Stage 2 appeals should fall under the remit of the Head of Legal and Democratic Services.	(o) To deal with stage 2 appeals under the dispute procedure for the Local Government Pension Scheme.	(o) To implement and maintain an appeals process under the dispute procedure for the Local Government Pension Scheme.
N/A	Table 8 – Delegations to the Corporate Director of Resources  Head of Legal and Democratic Services  Clause 75	Paul Cooper	Stage 2 appeals fall under the remit of Head of Legal and Democratic Services	N/A	75. In relation to the Pension Fund, to exercise the County Council’s function as administering authority relating to the Local Government Pension Scheme in the following way: a. To deal with stage 2 appeals under the dispute procedure for

					the Local Government Pension Scheme.
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**Council Procedure Rules**

<b>Original Reference</b>	<b>New Reference</b>	<b>Officer</b>	<b>Reason for Change</b>	<b>Previous wording</b>	<b>New wording</b>
1.1 Timing Para ii	N/A		Refers to Coronavirus legislation that is no longer in force.	ii. In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020) the requirement to hold an annual meeting will be disregarded in the year of 2020/2021 where no annual meeting will take place prior to 7th May 2021 unless where the meeting is: (a) called by the Chair of the Council in consultation with the Head of Paid Services and Head of Legal and Democratic Services; or	N/A - to remove.

				(b) following a resolution calling for an Annual meeting being passed at an ordinary or extraordinary meeting of the Council	
12.5 Content and Speeches	12.5 Content and Speeches	Jennifer Rogers	Incorrect paragraph lettering.	<p>12.5 Content and length of speeches</p> <p>(a) Speeches must be directed to the motion under discussion or to a personal explanation or point of order.</p> <p>(b) A speech by the mover of a motion may not exceed five minutes without the consent of the Chair, save where two items are being considered together, in which case paragraph (e) will apply.</p> <p>(a) Subject to paragraph (d) and (e) below, speeches by other Members, including those members speaking during their right to reply, may not exceed three minutes without</p>	<p>12.5 Content and length of speeches</p> <p>(a) Speeches must be directed to the motion under discussion or to a personal explanation or point of order.</p> <p>(b) A speech by the mover of a motion may not exceed five minutes without the consent of the Chair, save where two items are being considered together, in which case paragraph (e) will apply.</p> <p>(c) Subject to paragraph (d) and (e) below, speeches by other Members, including those members speaking during their right to reply, may not exceed three minutes without the consent of the Chair.</p>

				<p>the consent of the Chair.</p> <p>(b) When the Council's annual budget is under discussion, the Leader of each political group on the Council may speak for up to five minutes or such longer period as the Chair shall allow.</p> <p>(c) When two agenda items are being considered together, the proposer and seconder of the motion, and the Leaders of each political group on the Council, will be entitled to speak for double the usual allotted time under (b), (c) and (d) above.</p>	<p>(d) When the Council's annual budget is under discussion, the Leader of each political group on the Council may speak for up to five minutes or such longer period as the Chair shall allow.</p> <p>(e) When two agenda items are being considered together, the proposer and seconder of the motion, and the Leaders of each political group on the Council, will be entitled to speak for double the usual allotted time under (b), (c) and (d) above.</p>
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Part 4D Executive Procedure Rules

Original Reference	New Reference	Officer	Reason for Change	Previous wording	New wording

1.2 Delegation by the Leader, page 4D-2	1.2 Delegation by the Leader, page 4D-2	Jennifer Rogers	Error in referencing Article 6 should be Article 5.	Following the annual meeting of the Council, the Head of Legal and Democratic Services, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in Article 6 of this Constitution.	Following the annual meeting of the Council, the Head of Legal and Democratic Services, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in Article 5 of this Constitution.
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#### Part 4F – Financial Procedure Rules

<b>Original Reference</b>	<b>New Reference</b>	<b>Officer</b>	<b>Reason for Change</b>	<b>Previous wording</b>	<b>New wording</b>
2.3 The Role of the Audit Committee Para 2.3.1	2.3 The Role of the Audit Committee Para 2.3.1	Joanne McMahon	Treasury Management went straight into Council from last year and removed the Cabinet Scrutiny. This is now being added into the Audit Committee role in line with their other financial	2.3.1 The Audit Committee approves the final accounts and is an advisory committee to both the Council and the Executive on audit and governance issues in order to provide independent	2.3.1 The Audit Committee approves the final accounts and is an advisory committee to both the Council and the Executive on audit and governance issues in order to provide independent



			scrutiny responsibilities.	and effective assurance over the adequacy of the Council's financial management and reporting, risk management framework, and other processes required to achieve the council's corporate and service objectives.	and effective assurance over the adequacy of the Council's financial management and reporting, treasury management strategy, risk management framework, and other processes required to achieve the council's corporate and service objectives.
2.5 The Role of the Chief Finance Officer Para 2.5.2	2.5 The Role of the Chief Finance Officer Para 2.5.2	Joanne McMahon	Capitalised wording	2.5.1 Advising on risk management	2.5.1 Advising on Risk Management
3.1 Strategic Planning Para 3.1.3	3.1 Strategic Planning Para 3.1.3	Joanne McMahon	Capitalised wording	3.1.3 The Council's performance management framework	3.1.3 The Council's Performance Management Framework
3.4 Budget Transfers Para 3.4.2	3.4 Budget Transfers Para 3.4.2	Joanne McMahon	Changed from acronym to full title	3.4.2 Budget transfers within services should be agreed at Service Management Teams and then reflected in the budgetary control template which feeds	3.4.2 Budget transfers within services should be agreed at Service Management Teams and then reflected in the budgetary control template which feeds

				into the monthly update reports to CMT and the quarterly update reports to Cabinet.	into the monthly update reports to the Corporate Management Team and the quarterly update reports to Cabinet.
3.4 Budget Transfers Para 3.4.4	3.4 Budget Transfers Para 3.4.4	Joanne McMahon	Added a word for clarity.	3.4.4 Transfers to and from Earmarked Reserves need to be agreed by Service Management Teams and reflected during the year in the budgetary control template via outturn reporting.	3.4.4 Transfers to and from Earmarked Reserves need to be agreed by Service Management Teams and reflected during the quarterly outturn reporting.
3.4 Budget Transfers Para 3.4.6	3.4 Budget Transfers Para 3.4.6	Joanne McMahon	Removal of a word	3.4.6 A capital budget cannot be transferred to a revenue budget head.	3.4.6 A capital budget cannot be transferred to a revenue budget.
3.4 Budget Transfers Para 3.4.8	3.4 Budget Transfers Para 3.4.8	Joanne McMahon	Changed from acronym to full title	3.4.8 Any increase in overall capital budget e.g. new grant funding or approval to increase borrowing must be approved by CMT and MOWG before full approval by Cabinet.	3.4.8 Any increase in overall capital budget e.g. new grant funding or approval to increase borrowing must be approved by the Corporate Management Team and MOWG before

					full approval by Cabinet.
3.5 Cash Limits Para 3.5.1	3.5 Cash Limits Para 3.5.1	Joanne McMahon	Added a word	<p>3.5.1 What is the cash limit?</p> <ul style="list-style-type: none"> <li>• All running costs of services which are under the control or influence of the Corporate Director.</li> <li>• The Cash Limit Reserve is the balance which has been built up from any underspends in the year, or from previous years, that is earmarked for planned use by the service.</li> </ul>	<p>3.5.1 What is the cash limit?</p> <ul style="list-style-type: none"> <li>• All running costs of services which are under the control or influence of the Corporate Director.</li> <li>• The Cash Limit Reserve is the balance which has been built up from any net underspends in the year, or from previous years, that is earmarked for planned use by the service.</li> </ul>
3.5 Cash Limits Para 3.5.4	3.5 Cash Limits Para 3.5.4	Joanne McMahon	Added an example	3.5.4 What happens if excessive costs impact	3.5.4 What happens if excessive costs impact

				upon service groupings (e.g. extreme weather events such as flooding or severe winters)	upon service groupings (e.g. extreme weather events such as flooding or severe winters, hyper-inflation etc)
3.7 Reporting Council Spending at Year End Para 3.7.2	3.7 Reporting Council Spending at Year End Para 3.7.2	Joanne McMahon	Added part of a sentence for clarity	<p>3.7.2 The Chief Finance Officer is responsible for:</p> <ul style="list-style-type: none"> <li>• Publishing a timetable for the closure of the accounts annually.</li> <li>• Ensuring that the Council's annual Statement of Accounts is prepared in accordance with the most up-to-date Code of Practice on Local Authority</li> </ul>	<p>3.7.2 The Chief Finance Officer is responsible for:</p> <ul style="list-style-type: none"> <li>• Publishing a timetable for the closure of the accounts annually.</li> <li>• Ensuring that the Council's annual Statement of Accounts is prepared in line with statutory deadlines and in accordance with the most up-to-date Code of</li> </ul>

				Accounting produced by CIPFA/LASAAC, the latest Accounts and Audit Regulations (England) and any other relevant guidelines.	Practice on Local Authority Accounting produced by CIPFA/LASAAC, the latest Accounts and Audit Regulations (England) and any other relevant guidelines.
4.1 Risk Management Para 4.1.5	4.1 Risk Management Para 4.1.5	Joanne McMahon	Change of job title	4.1.5 The Corporate Risk Management Group supported by the Corporate Risk Manager is responsible for reviewing strategic risks and reporting progress on the management of strategic risk to Cabinet.	4.1.5 The Corporate Risk Management Group supported by the Risk, Insurance and Governance Manager is responsible for reviewing strategic risks and reporting progress on the management of strategic risk to Cabinet.
4.1 Risk Management Para 4.1.6	4.1 Risk Management Para 4.1.6	Joanne McMahon	Change of job title	4.1.6 It is the responsibility of Chief Officers to ensure	4.1.6 It is the responsibility of Chief Officers to ensure

				that there are regular reviews of risk within their areas of responsibility, having regard to advice from the Council's Corporate Risk Manager and other specialist officers (e.g. crime prevention, fire prevention, Health & Safety).	that there are regular reviews of risk within their areas of responsibility, having regard to advice from the Council's Risk, Insurance and Governance Manager and other specialist officers (e.g. crime prevention, fire prevention, Health & Safety).
4.2 Internal Control Para 4.2.5	4.2 Internal Control Para 4.2.5	Joanne McMahon	Clarity added to legislation	4.2.5 The Council is required to provide an Annual Governance Statement in accordance with the Accounts and Audit Regulations 2015. As part of this statement, the Chief Executive and the Leader of the Council are required to comment on the effectiveness of the entire internal control environment within	4.2.5 The Council is required to provide an Annual Governance Statement in accordance with Regulation 6 (1) b of the Accounts and Audit (England) Regulations 2015. As part of this statement, the Chief Executive and the Leader of the Council are required to comment on the effectiveness of the

				the Council as this is a key indicator of good governance.	entire internal control environment within the Council as this is a key indicator of good governance.
4.2 Internal Control Para 4.2.7	4.2 Internal Control Para 4.2.7	Joanne McMahon	Wording added for clarity	4.2.7 It is the responsibility of the Audit Committee to approve the Annual Governance Statement and to seek the necessary assurance that the Council's corporate governance arrangements including risk management and internal control are effective.	4.2.7 It is the responsibility of the Audit Committee to review and approve the Annual Governance Statement and to seek the necessary assurance that the Council's corporate governance arrangements including risk management and internal control are effective.
4.6 Use of and Disposal of Assets Para 4.6.3	4.6 Use of and Disposal of Assets Para 4.6.3	Joanne McMahon	Change of job title	4.6.3 Chief Officers are responsible for ensuring that adequate and effective arrangements are in place for the care and custody of all assets	4.6.3 Chief Officers are responsible for ensuring that adequate and effective arrangements are in place for the care and custody of all assets

				within their Service area and ensuring that assets are disposed of in accordance with procedures approved by the Chief Finance Officer and/or the Head of Planning and Asset Management.	within their Service area and ensuring that assets are disposed of in accordance with procedures approved by the Chief Finance Officer and/or the Head of Corporate Property and Land.
4.8 Treasury Management Para 4.8.5	4.8 Treasury Management Para 4.8.5	Joanne McMahon	Treasury Management went straight into Council from last year and removed the Cabinet Scrutiny. This is now being added into the Audit Committee role in line with their other financial scrutiny responsibilities.	4.8.5 The Council has delegated its responsibility for the implementation and monitoring of its Treasury Management policies and practices to the Cabinet.	4.8.5 The Council has delegated its responsibility for the scrutiny and monitoring of its Treasury Management policies and practices to the Audit Committee.
4.11 Grant and External Funding Para 4.11.2	4.11 Grant and External Funding Para 4.11.2	Joanne McMahon	Word change for clarity	4.11.2 Chief Officers must ensure that any project to be funded by external funding does not commence until proper approval has been obtained	4.11.2 Chief Officers must ensure that any project to be funded by external bodies does not commence until proper approval has been obtained



				and the source of external funding confirmed.	and the source of external funding confirmed.
4.15 Contracts, Agreements and Purchasing Para 4.15.2	4.15 Contracts, Agreements and Purchasing Para 4.15.2	Joanne McMahon	Change of job title	4.15.2 The Corporate Procurement Manager is responsible for developing the Corporate Strategy for Commissioning and Procurement and providing advice on procurement issues.	4.15.2 The Chief Procurement Officer is responsible for developing the Corporate Strategy for Commissioning and Procurement and providing advice on procurement issues.
5.1 General Para 5.1.2	5.1 General Para 5.1.2	Joanne McMahon	Change of word for clarity	5.1.2 The Chief Finance Officer is responsible for: <ul style="list-style-type: none"> <li>• The operation of the Council's accounting and financial systems.</li> <li>• The form of accounts and any supporting financial records.</li> <li>• Advising Chief Officers on the establishment</li> </ul>	5.1.2 The Chief Finance Officer is responsible for: <ul style="list-style-type: none"> <li>• The operation of the Council's accounting and financial systems.</li> <li>• The format of accounts and any supporting financial records.</li> <li>• Advising Chief Officers on the establishment</li> </ul>

				and operation of trading accounts and business units.	and operation of trading accounts and business units.
5.5 Business Rates Retention Scheme	5.5 Business Rates Collection Fund - Business Rates Retention Scheme	Joanne McMahon	Title change	See column 1	See column 2
Appendix A	Appendix A	Joanne McMahon	Appendix A has been changed and renumbered to reflect changes in the Financial Management Standards. They have been amalgamated and then the numbers have not been reallocated – there are consequently gaps in the new numbering.	Original Appendix A appended	New Appendix A appended

Part 4G – Contract Procedure Rules

<b>Original Reference</b>	<b>New Reference</b>	<b>Officer</b>	<b>Reason for Change</b>	<b>Previous wording</b>	<b>New wording</b>
1.1 What are Contract Procedure Rules?  Clause 1.1.5	1.1 What are Contract Procedure Rules?  Clause 1.1.5	Louiza McIntosh	” These CPRs will also adhere to new procurement legislation as and when introduced and to be updated accordingly. “ – this statement included to allow for minor interim changes that may be required	1.1.5 These CPRs observe the requirements of UK legislation namely the Public Contracts Regulations 2015 (PCRs) and, in addition to ongoing amendments and updates as issued by the Cabinet Office in	1.1.5 These CPRs observe the requirements of UK legislation namely the Public Contracts Regulations 2015 (PCRs) and, in addition to ongoing amendments and updates as issued by the Cabinet Office in

			with 2024 introduction of the Procurement Act	the form of Procurement Policy Notes.	the form of Procurement Policy Notes. These CPRs will also adhere to new procurement legislation as and when introduced and to be updated accordingly.
2. Basic Principles  Clause 2.1 (g)	2. Basic Principles  Clause 2.1 (g)	Louiza McIntosh	“applicable legislative principles of international trading countries and the UK, including amendment regulations...” – update to wording replacing EU specific trading with international trading and regulations.	(g) Comply with all legislative requirements including European Union (EU) Treaty principles which in relation to procurement are as follows: <ul style="list-style-type: none"> <li>• transparency – contract procedures must be transparent and contract opportunities should generally be publicised;</li> <li>• equal treatment and</li> </ul>	(g) Comply with applicable legislative principles of international trading countries and the UK, including amendment regulations, which in relation to procurement are as follows: <ul style="list-style-type: none"> <li>• transparency – contract procedures must be transparent and contract opportunities should generally be publicised;</li> </ul>

				<p>non-discrimination – potential suppliers must be treated equally;</p> <ul style="list-style-type: none"> <li>• proportionality – procurement procedures and decisions must be proportionate;</li> <li>• mutual recognition – giving equal validity to qualifications and standards from other Member States, where appropriate.</li> </ul>	<ul style="list-style-type: none"> <li>• equal treatment and non-discrimination – potential suppliers must be treated equally;</li> <li>• proportionality – procurement procedures and decisions must be proportionate;</li> <li>• mutual recognition – giving equal validity to qualifications and standards from other trading countries, where appropriate.</li> </ul>
<p>4. Variations to Contract Procedure Rules</p> <p>Clause 4.6</p>	<p>4. Variations to Contract Procedure Rules</p> <p>Clause 4.6</p>	Tracy Henderson	Current wording does not reflect current practice.	4.6 Where a Variation is being applied for by Corporate Procurement, it must also be scrutinised by	4.6 Where a Variation is being applied for by Corporate Procurement, it may also be scrutinised by

				Internal Audit, to ensure the robustness of the procedure.	Internal Audit, to ensure the robustness of the procedure.
5. Exemptions Clause 5.1(b)	5. Exemptions Clause 5.1(b)	Louiza McIntosh	minor updates to the exemption list with renumbering.	N/A – sub-clause added	xii Payments for documents, document certification and authentication services, which may only be provided by notaries, or from the issuing authority, such as the General Registry Officer or HM Passport Office.
5. Exemptions N/A – insertion of clause 5.1(e)  (means the later subsections are renumbered)	5. Exemptions Clause 5.1(e)	Louiza McIntosh	new exemption	N/A – new wording added	5.1(e) Payment for the services of veterinary experts for the emergency care of animals.
5. Exemptions Clause 5.1(k)	5. Exemptions Clause 5.1(l)	Louiza McIntosh	Information moved to other clauses.	(k) Contracts for legal representation by a lawyer (advocate, barrister, or solicitor) in arbitration or conciliation	(l) Contracts for legal representation by a lawyer (advocate, barrister, or solicitor) in arbitration or conciliation

				proceedings, judicial proceedings before the courts, tribunals or public authorities of an EU member state or third country or before international courts, tribunals or institutions.	proceedings, judicial proceedings before the courts, tribunals or public authorities of an EU member state or third country or before international courts, tribunals or institutions. Also, including payments for legal advice given by a lawyer or other expert opinion requested, in preparation form or connected to, any of the proceedings mentioned.
5. Exemptions  Clause 5.1 (l)	N/A - deleted	Louiza McIntosh	Information moved to other clauses.	(l) Payments for legal advice given by a lawyer, or other expert opinion requested, in preparation for, or connected to, any of the proceedings mentioned in (k) above.	N/A - deleted

5. Exemptions  Clause 5.1 (m)	N/A - deleted	Louiza McIntosh	Information moved to other clauses.	(m) Payments for documents, document certification and authentication services, which may only be provided by notaries, or from the issuing authority such as the General Registry Office, HM Passport Office.	N/A - deleted
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Part 5D – Code of Practice for Members and Officers Dealing with Planning Matters

Original Reference	New Reference	Officer	Reason for Change	Previous wording	New wording
Code of Practice for Members and Officers Dealing with Planning Matters	Code of Practice for Members and Officers Dealing with Planning Matters	Clare Cuskin		N/A – new paragraph added	At the beginning of the document before the introduction, the following paragraph is proposed to be added:  This Code applies to Members at all times when involving themselves in the planning process. This includes when taking part in the decision-



					making meetings of the Council in exercising the functions of the Planning Committee, or (where appropriate) when involved on less formal occasions, such as meetings with officers or the public and consultative meetings.
1. Introduction Paragraph 1.1	1. Introduction Paragraph 1.1	Clare Cuskin	Following an update to the Lawyers in Local Government's 'Members Planning Good Code of Practice', officers reviewed its provisions and considered which elements should be incorporated into the Council's Code of Practice. The main amendments relate to highlighting and clarifying the respective roles, responsibilities and duties of members and officers at planning committees.	N/A – new sentence added.	At the end of the paragraph, the following is proposed to be added:  The role of Members of the Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

<p>1. Introduction  Paragraph 1.6</p>	<p>1. Introduction  Paragraph 1.6</p>	<p>Tracy Henderson</p>	<p>Audit Commission no longer exists</p>	<p>1.6 This code is largely based upon the Local Government Association's Guidance entitled Probity in Planning for councillors and officers published in April 2013, which takes account of the ethical framework for local government. It takes account of the Royal Town Planning Institute's Code of Professional Conduct and advice issued by the Audit Commission, the Commissioners for Local Administration in England and the National Planning Forum. It complements the Council's Code of Conduct for Members. This code is consistent with meeting the</p>	<p>1.6 This code is largely based upon the Local Government Association's Guidance entitled Probity in Planning for councillors and officers published in April 2013, which takes account of the ethical framework for local government. It takes account of the Royal Town Planning Institute's Code of Professional Conduct and advice issued by the Commissioners for Local Administration in England and the National Planning Forum. It complements the Council's Code of Conduct for Members. This code is consistent with meeting the requirements of</p>
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				requirements of Article 6 of the European Convention on Human Rights which confers a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations. In respect to the advice contained at paragraph 7 regarding Member engagement in pre-application advice, account has been taken of advice issued by the Planning Advisory Service, the Standards Board for England and the LGA advice leaflet 'Positive Engagement' issued in 2009.	Article 6 of the European Convention on Human Rights which confers a right to procedural fairness, transparency and accountability in the determination of civil rights and obligations. In respect to the advice contained at paragraph 7 regarding Member engagement in pre-application advice, account has been taken of advice issued by the Planning Advisory Service, the Standards Board for England and the LGA advice leaflet 'Positive Engagement' issued in 2009.
3. Declarations of Interest  N/A – new paragraph	3. Declarations of Interest  Paragraph 3.4	Clare Cuskin	Following an update to the Lawyers in Local Government's 'Members Planning Good Code of Practice', officers	N/A – new paragraph	3.4 It is important that Members of Planning Committee do not fetter their discretion and therefore their ability to participate in

			<p>reviewed its provisions and considered which elements should be incorporated into the Council’s Code of Practice. The main amendments relate to highlighting and clarifying the respective roles, responsibilities and duties of members and officers at planning committees.</p>		<p>planning decision-making by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.</p>
<p>9. The Decision Making Process</p> <p>N/A – new paragraph</p>	<p>9. The Decision Making Process</p> <p>Paragraph 9.2</p>	<p>Clare Cuskin</p>	<p>As above</p>	<p>N/A – new paragraph</p>	<p>9.2 Members shall also recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council’s Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute’s Code of Professional</p>

					Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.
10. Site Visits by the Committee  N/A – new sub-paragraph	10. Site Visits by the Committee  Paragraph 10.2(a)	Clare Cuskin	As above	N/A – new paragraph	10.2(a) The Head of Planning and Housing agree the need for a site visit in consultation with the Chair of the meeting.
10. Site Visits by the Committee  N/A – new paragraph	10. Site Visits by the Committee  10.2(c)	Clare Cuskin	As above	N/A – new paragraph	10.2(c) The Head of Planning and Housing will contact the applicant to make arrangements for the site visit where appropriate. As part of this contact the Head of Planning and Housing will invite the applicant to raise any

					<p>safeguarding or other logistical issues associated with the visit as may be appropriate. This will ensure that those visiting the site have permission to enter private land if required and to enable the visit to be undertaken in a controlled manner, cogent of any safeguarding or wider logistical issues raised by the applicant.</p>
<p>10. Site Visits by the Committee</p> <p>N/A – new paragraph</p>	<p>10. Site Visits by the Committee</p> <p>Paragraph 10.2(d)</p>	<p>Clare Cuskin</p>	<p>As above</p>	<p>N/A – new paragraph</p>	<p>10.2(d) The role of the applicant prior to the site visit is to make the Council and its representatives aware of any specific requirements in relation to the site visit, for example, the need to sign in before entering the site, wear appropriate PPE, visit during or outside certain hours.</p>

<p>10. Site Visits by the Committee</p> <p>Paragraph 10.2(d)</p>	<p>10. Site Visits by the Committee</p> <p>Paragraph 10.2(g)</p>	<p>Clare Cuskin</p>		<p>10.2 (d) On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The Head of Planning, or their representative, will explain the application as it relates to the site and relevant viewpoints. Following any questions to the Head of Planning, the Chair will bring the site visit to a close.</p>	<p>10.2 (g) On assembling at the site, at the time specified, the Chair (or lead officer in the absence of Chair and Vice Chair) will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The Head of Planning and Housing, or their representative, will explain the application as it relates to the site and relevant viewpoints. The Head of Planning and Housing, or their representative, will where practicable, make themselves known to the applicant, or their representative, and ensure the visiting party complies with all health and safety and safeguarding requirements as</p>
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					notified by the applicant. Following any questions to the Head of Planning and Housing (or their representative), the Chair will bring the site visit to a close.
10. Site Visits by the Committee  Paragraph 10.2(f)	10. Site Visits by the Committee  Paragraph 10.2(i)	Clare Cuskin	As above	10.2(f) In all cases the safety of those engaged in the site visit is of paramount importance. In cases where Officers consider a proposal is likely to generate hostility as part of a site visit the Head of Planning or their representative will liaise with the Health and Safety Manager to undertake a risk assessment ahead of the planned visit. Appropriate control measures will be identified as part of the risk assessment and discussed with the Chair in advance of the visit.	10.2(i) In all cases the safety of those engaged in the site visit, and anyone else who may be at the site and affected by the visit, is of paramount importance. In cases where Officers consider a proposal is likely to generate hostility as part of a site visit or involve potential safeguarding matters the Head of Planning and Housing or their representative will liaise with the appropriate Council representative to undertake a risk



					assessment ahead of the planned visit. Appropriate control measures will be identified as part of the risk assessment and discussed with the Chair in advance of the visit.
11. Representations on Planning Applications  N/A – new paragraph	11. Representations on Planning Applications  Paragraph 11.3	Clare Cuskin	As above	N/A – new paragraph	11.3 It is important that Members of planning committees do not allow members of the public to communicate with them during the committee’s proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
11. Representations on Planning Applications	11. Representations on Planning Applications	Clare Cuskin	As above	N/A – new paragraph	11.4 Members of planning committees should also not participate in social

N/A – new paragraph	Paragraph 11.4				media or exchanges by texting as a member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.
12. Review of Decisions Para 12.1	12. Review of Decisions Para 12.1	Tracy Henderson	Audit Commission no longer exists.	12.1 The Audit Commission's Report, 'Building in Quality', recommended that elected members should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.	N/A - proposed that clause 12.1 be removed.

County Council

22 May 2024



**Appointment of Council Bodies and  
Allocation of Seats to Political Groups  
under Section 15 of the Local Government  
and Housing Act 1989**

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**Report of Corporate Management Team**

**Helen Bradley, Director of Legal and Democratic Services**

**Electoral division(s) affected:**

Countywide

**Purpose of the Report**

- 1 To appoint Committees and the Corporate Parenting Panel in accordance with the Council's Constitution and within the terms of reference set out therein.
- 2 To determine the allocation of seats among the political groups represented on the Council on Committees in accordance with the provisions of Sections 15 and 16 of the Local Government and Housing Act 1989.

**Executive summary**

- 3 The Council is required at its annual meeting to decide which committees and sub-committees to establish for the year, their size and terms of reference, and determine the allocation of seats to political groups represented on the Council on Committees in accordance with the provisions of Sections 15 and 16 of the Local Government and Housing Act 1989.

**Recommendation**

- 4 The Council is recommended to:
  - (a) appoint the Committees as shown in Appendix 2 in accordance with the Constitution and with the Terms of Reference set out therein;

- (b) in respect of the total number of seats on Committees, to determine the total allocation of seats to each political group and, subject to any necessary adjustments arising from that determination, agree the allocation of seats on each as shown in the Appendix 2;
- (c) authorise the Director of Legal and Democratic Services, in consultation with the relevant Group Leader, to determine any further necessary adjustments to be made to individual Committee and Sub-Committee allocations in accordance with the provisions of Sections 15 and 16 of the Local Government and Housing Act 1989;
- (d) authorise the Director of Legal and Democratic Services to allocate seats to political groups in respect of any sub-committee which might be established from time to time, in accordance with the provisions of Sections 15 and 16 of the 1989 Act and to make any necessary adjustments in respect of Area Action Partnership representation.
- (e) to appoint the Corporate Parenting Panel in accordance with the Constitution and with the Terms of Reference set out therein, and determine the allocation of seats to each political group (Appendix 2) and, subject to any necessary adjustments arising from that determination, agree the allocation of seats on each as shown in the Appendix 2;
- (f) to appoint the Health and Wellbeing Board in accordance with the Constitution and with the Terms of Reference set out therein, and agree the allocation of seats as shown in Appendix 4.

## Background

- 5 Section 15 of the Local Government and Housing Act 1989 (Duty to Allocate Seats to Political Groups) sets out the requirements as to political proportionality on Council bodies and requires the Council, in allocating seats on committees and sub-committees of the Council to political groups, to give effect, so far as practicable, to the following four principles:
- (a) that not all seats on the committee/sub-committee are allocated to the same political group;
  - (b) that the political group having a majority of seats on the Council should have a majority on each committee and sub-committee;
  - (c) that, subject to (a) and (b) above, the number of seats on the Council's committees and sub-committees allocated to each political group, bears the same proportion to the total number of such committee/sub-committee seats as the number of members of that group bears to the membership of the full Council, and
  - (d) that, subject to (a) to (c) above, seats will be allocated on each committee and sub-committee in the same ratio as exists on the full Council.
- 6 Of the total of 126 members on the County Council the number of members in each political group and their proportion of 126 is as follows:

<b>Political Grouping</b>	<b>Number of seats on Council</b>	<b>Percentage entitlement</b>
Labour	56	44.44%
Conservative	22	17.46%
Liberal Democrat	17	13.49%
Durham Group	13	10.32%
Durham County Council Independent Group	9	7.14%
Spennymoor and Tudhoe Independent Group	3	2.38%
The Unaligned Group	3	2.38%
The County Durham Independent Group	3	2.38%
<b>Total</b>	<b>126</b>	<b>99.99%</b>

- 7 Section 15 of the Local Government and Housing Act 1989 (Duty to Give Effect to Allocations) requires the Council to give effect to these principles so far as reasonably practicable. This recognises that there cannot be an exact application of the rules.
- 8 The distribution of seats between groups has therefore been calculated on a proportional split of the 126 seats. In each case the determination of seat numbers has followed the general principle of rounding up or down.
- 9 There has been some adjustment to the resulting distribution to correct the consequences of this and to give effect to the principles in Section 15 of the Local Government and Housing Act 1989 as set out in paragraphs 5 and 7 above. The resulting allocation of seats is attached at Appendix 2.
- 10 Appendix 2 also sets out how the seats on the Corporate Parenting Panel and Statutory Licensing Committee would be allocated on the basis of political proportionality as in-line with previous years. The determination of seat numbers has followed the general principle of rounding up or down. Again, there has been some adjustment to the resulting distribution to correct the consequences of this and to give effect to the principles in Section 15 of the Local Government and Housing Act 1989 as set out in paragraph 5 above.
- 11 The Director of Legal and Democratic Services will consult and re-allocate seats with the relevant groups should the membership of Area Action Partnerships require adjustment.
- 12 The Health and Wellbeing Board which came into effect on 1 April 2013 is a committee of the Council, and its composition is set out in Appendix 4. Council is required to confirm the appointment of the Board, and the allocation of seats, whose terms of reference are contained in the Council's Constitution.

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**Contact:** Helen Bradley

Tel: 03000 269732

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## **Appendix 1: Implications**

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**Legal Implications** – As set out in the report to make appointments in line with the requirements of Sections 15 and 16 of the Local Government and Housing Act 1989.

**Finance** – None specific within this report

**Staffing** – None specific within this report

**Risk** – None specific within this report

**Equality and Diversity/ Public Sector Equality Duty** – None specific within this report

**Climate Change**- None specific within this report

**Accommodation** – None specific within this report

**Crime and Disorder** – None specific within this report

**Human Rights** – None specific within this report

**Procurement** – None specific within this report

**Disability Issues** – None specific within this report

**Consultation** – As set out in the report

## Appendix 2: Allocation of Seats

Committee	Seats	LAB	CON	LIB	DG	DCCIG	ST	TUG	CDI
Corporate Overview and Scrutiny Management Board	26	11	4	3	3	2	1	1	1
Adults, Wellbeing and Health Overview and Scrutiny Committee	21	9	4	3	2	1	Two seats between DCCIG/ST/TUG/CDI		
Children and Young People's Overview and Scrutiny Committee	21	9	4	3	2	1	Two seats between DCCIG/ST/TUG/CDI		
Economy and Enterprise Overview and Scrutiny Committee	21	9	4	3	2	1	Two seats between DCCIG/ST/TUG/CDI		
Environment and Sustainable Communities Overview and Scrutiny Committee	21	9	4	3	2	1	Two seats between DCCIG/ST/TUG/CDI		
Safer and Stronger Communities Overview and Scrutiny Committee	21	9	4	3	2	1	Two seats between DCCIG/ST/TUG/CDI		
Appeals and Complaints Committee	30	13	5	4	3	2	1	1	1
Highways Committee	21	9	4	3	2	1	Two seats between DCCIG/ST/TUG/CDI		



<b>Committee</b>	<b>Seats</b>	<b>LAB</b>	<b>CON</b>	<b>LIB</b>	<b>DG</b>	<b>DCCIG</b>	<b>ST</b>	<b>TUG</b>	<b>CDI</b>
General Licensing and Registration Committee	27	12	5	3	3	2	Two seats between DCCIG/ST/TUG/CDI		
County Planning Committee	16	7	3	2	2	1	One seat between DCCIG/ST/TUG/CDI		
Area Planning Committee (North Durham)	16	7	3	2	2	1	One seat between DCCIG/ST/TUG/CDI		
Area Planning Committee (Central and East Durham)	16	7	3	2	2	1	One seat between DCCIG/ST/TUG/CDI		
Area Planning Committee (South and West Durham)	16	7	3	2	2	1	One seat between DCCIG/ST/TUG/CDI		
Pension Fund Committee	11	5	2	2	1	1	0	0	0
Chief Officer Appointments Committee	11	5	2	2	1	1	0	0	0
Audit Committee	9	4	2	1	1	1	0	0	0
Standards Committee	11	5	2	2	1	1	0	0	0

<b>Committee</b>	<b>Seats</b>	<b>LAB</b>	<b>CON</b>	<b>LIB</b>	<b>DG</b>	<b>DCCIG</b>	<b>ST</b>	<b>TUG</b>	<b>CDI</b>
Corporate Parenting Panel	21	9	4	3	2	1	Two seats between DCCIG/ST/TUG/CDI		
Statutory Licensing Committee	15	7	3	2	2	1	0	0	0

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### Appendix 3: Composition of the Health and Wellbeing Board

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This Board comprises of:

Representatives nominated by the Leader being currently:

- Portfolio Holder for Adult and Health Services;
- Portfolio Holder for Children and Young People's Services; and;
- Portfolio Holder for Finance; and
  
- Director of Integrated Community Services (a joint representative of Durham County Council and Health Partners);
- representation from the North East and North Cumbria Integrated Care Board;
- representation from the North East and North Cumbria Integrated Care System
- a representative from Healthwatch County Durham;
- Corporate Director of Adult and Health Services;
- Corporate Director of Children and Young People's Services;
- Corporate Director of Regeneration, Economy and Growth (nominated housing representative is the Strategic Manager for Housing);
- Director of Public Health (also a member of the County Durham Environment and Climate Change Partnership)

and nominated representation from each of the following:

- Chief Executive of County Durham and Darlington NHS Foundation Trust;
- Chief Executive of Harrogate and District NHS Foundation Trust;
- Chief Executive of North Tees and Hartlepool NHS Foundation Trust;
- Chief Executive of South Tyneside and Sunderland NHS Foundation Trust;
- Chief Executive of Tees, Esk and Wear Valley NHS Foundation Trust;
- County Durham and Darlington Fire and Rescue Service;
- County Durham Economic Partnership;
- County Durham Care Partnership – Lay Member for Engagement.
- Durham Community Action;
- Durham Constabulary;
- Durham University; and
- Office of Police and Crime Commissioner.

22 May 2024

**Appointments to Joint Bodies and  
Other Bodies 2024/25**



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**Report of Corporate Management Team**

**Helen Bradley, Director of Legal and Democratic Services**

**Electoral division(s) affected:**

Countywide

**Purpose of the Report**

- 1 To agree the appointments process of Members to Joint and Other Bodies.

**Executive summary**

- 2 The Council is required to agree at its annual meeting the appointments to the joint bodies and other bodies to which the Council are invited to nominate representatives. The background and criteria for appointing to these bodies is set out in paragraph 4 of the report.

**Recommendation**

- 3 The Council is asked to:
  - (a) agree the allocation of seats on the County Durham Fire and Rescue Authority as detailed in Appendix 2.
  - (b) agree the allocation of seats to the Business Durham Advisory board as set out in paragraph 4(b) to the report.
  - (c) agree the allocation of seats on the Charter Trust as detailed in Appendix 3.
  - (d) agree the allocation of seats on the Police and Crime Panel as detailed in Appendix 4.
  - (e) agree that the Chair of the Audit Committee is nominated to serve on the Joint Audit Committee to assist the Durham Police and Crime Commissioner, and Chief Constable, noting the nomination is subject to approval of the Durham Police and Crime Commissioner.

- (f) note the current arrangements for the North East Combined Authority and authorise the Director of Legal and Democratic Services, in consultation with the appropriate Group Leader(s) to make appointments once the specifics of the determination of allocation to political groupings are advised to the council by the NECA secretariat.
- (g) authorise the Director of Legal and Democratic Services, in consultation with the appropriate Group Leader(s), to make appointments to the other outside bodies to which the Council are invited to nominate, in accordance with the following criteria:
  - (i) identify those organisations whose purpose is aligned to a specific Cabinet Portfolio, and nominate Members accordingly.
  - (ii) identify local outside bodies from each electoral division and allocate those to local members. If there are more seats on an outside body than local members then the political balance would be applied. For those local bodies which are strategic in nature representation by a specific Cabinet Portfolio would be appropriate.
  - (iii) If a consensus on the allocation of seats to Members within the electoral division cannot be reached, should the division be represented by Members from different parties and agreement cannot be reached, the party with the largest proportion of seats on the Council would be allocated the seat.
  - (iv) the bodies which are not local to a particular electoral division, for example, those with a County or Regional remit, appointments be made in accordance with the overall political proportionality of the Council, except in the case of bodies providing services in one particular locality, in such circumstances the membership would be from that locality.
- (h) authorise the Director of Legal and Democratic Services, in consultation with the appropriate Group Leader(s), to make any changes to memberships of the main outside bodies/ joint bodies approved by Council, which may become necessary during the course of 2024/25.

## Appointments Process

- 4 The Council is required to agree at its annual meeting the appointments to the joint bodies, and other bodies to which the Council is invited to nominate representatives. For those bodies not specifically referenced in paragraphs (a) to (f) below, the criteria for appointments is listed in paragraph (g). Where a joint body or other body has an annual meeting any changes of member representation would be effective from that date.

### **(a) County Durham and Darlington Fire and Rescue Authority**

This is a joint body and seats are required to be allocated in accordance with political proportionality, as set out in Appendix 2. In 2022 the Durham County Council Independent Group, the Spennymoor and Tudhoe Independent Group, and the Unaligned Group all had equal shares to one seat. The seat was allocated to the Durham County Council Independent Group for 2022/23, the Unaligned Group for 2023/24 and the Spennymoor and Tudhoe Independent Group for 2024/25, provided that the political entitlement remained unchanged for those years.

Political balance changed following the formation of the County Durham Independent Group in May 2023, which meant that the Durham County Council Independent Group, the Spennymoor and Tudhoe Independent Group, the Unaligned Group and the County Durham Independent Group all had equal shares and shared two seats.

It was agreed with the Group Leaders of those Groups that the order of allocations would be determined by drawing lots. The two groups who did not have seats in 2023/24 would be allocated seats in 2024/25 provided there was no change in political balance and the entitlement to seats.

Accordingly, seats were allocated to the Durham County Council Independent Group and the County Durham Independent Group for 2023/24. There has been no change in the political balance and therefore it is proposed (as per the agreement between Group Leaders in 2023/24) that the Spennymoor and Tudhoe Independent Group and the Unaligned Group will be allocated seats for 2024/25.

### **(b) Business Durham Advisory Board**

The Council agreed at its meeting on 14 July 2021 that the membership of the Board for the municipal year 2021/22 be:

- (i) The Chair of the Council, the Leader of the Council, the Deputy Leader of the Council and the Cabinet Portfolio Holder for Economy and Partnerships and the portfolio holder for Housing and Assets.
- (ii) To appoint the Cabinet member for Neighbourhoods and Climate to support on the wider and strategic linkages between climate change and business; and
- (iii) To appoint the Leader of the Labour Group to the board for the municipal year 2021/22 and include a provision for an official named substitute if the Leader of the Labour Group is unavailable to attend.

The same composition has been agreed in 2022/23, 2023/24 and it is proposed it continues for 2024/25.

**(c) Charter Trust of the City of Durham**

The Council agreed the composition of the Charter Trust on 20 March 2013 as a result of the Electoral Boundary Review of County Durham. The composition of the Trust is as set out in Appendix 3, and Council is required to confirm the appointments to the Trust. For the municipal year 2021/22, 2022/23 and 2023/24 the Council did not appoint to the three additional trustee positions as listed in paragraph 4 of Appendix 3.

**(d) Police and Crime Panel**

The Council agreed to the composition of the Police and Crime Panel, which is a joint committee with Darlington Borough Council, on 25 July 2012. Its composition of 12 members is made up of 7 elected representatives of Durham County Council, 3 elected representatives of Darlington Borough Council, and 2 independent co-opted members.

It is necessary to appoint members in accordance with legislation relating to political balance, and also as described in the Police and Reform and Social Responsibility Act 2011 - the “balanced appointment objective”. This means that Councillors on the panel represent all parts of the relevant police area, represent the political make-up of the relevant authorities when taken together, and have the skills, knowledge and experience necessary for the Police and Crime Panel to discharge its functions effectively.

The 10 seats to elected members will remain 7 elected representatives of Durham County Council, and 3 elected

representatives of Darlington Borough Council. The political make-up of the relevant authorities when taken together is shown in Appendix 4.

(e) **Representative – Joint Audit Committee**

At each annual Council meeting since 2013, Council has agreed the nomination from the Authority for a representative to serve on the Joint Audit Committee to assist the Police and Crime Commissioner and Chief Constable. The Joint Committee's membership was to be enhanced by the appointment of two elected members, one from Durham County Council and one from Darlington Borough Council. In accordance with custom and practice, Councillor A Watson as the Chair of the Council's Audit Committee was nominated to this position at the annual council in May 2022. It is proposed that the Chair of the Audit Committee for 2024/25 is nominated to this position.

The appointee would receive reasonable travel and other expenses in connection with their role, and an allowance which would be reimbursed by the Police and Crime Commissioner, and Chief Constable. Council is required to determine the appointment for the ensuing year.

(f) **North East Combined Authority**

At the meeting of the Council held on 27 March, the Council was required to make appointments to the North East Combined Authority in advance of its first scheduled meeting on the 7 May, following the Mayoral Election on 2 May 2024. The Council agreed that the Leader of the Council be appointed and that the Deputy Leader and Portfolio Holder for Finance, plus the Portfolio Holder for Economy and Partnerships from the Executive be appointed as substitutes.

NECA currently has two committees, namely:

- Overview and Scrutiny Committee; and
- Audit and Standards Committee.

It is anticipated that NECA will be establishing a Business Board and a number of advisory boards to support the Mayor and Cabinet in their decision-making roles.

At the NECA Cabinet meeting held on 7 May 2024, it was agreed that report would be presented to the NECA Cabinet meeting in June 2024 (i.e. after the Annual Meetings of the

constituent councils) regarding appointments to these committees and boards.

The NECA secretariat have not provided any other special requirements for appointments including any specific requirements of allocations to political groupings on the council and to take into account the local elections held on 2 May 2024. In the circumstances it is suggested that once the position has been confirmed by the NECA secretariat, the Director of Legal and Democratic Services, in consultation with the appropriate Group Leader(s) make appointments.

**(g) Other Bodies**

In relation to the appointment to all other bodies to which the Council are invited to nominate the current criteria for appointment to these bodies is set out below:-

The Director of Legal and Democratic Services, in consultation with the appropriate Group Leaders, is authorised to make appointments to the other bodies to which the Council are invited to nominate, in accordance with the following criteria:-

- (i) identify those organisations whose purpose is aligned to a specific Cabinet Portfolio, and nominate Members accordingly.
- (ii) identify local outside bodies from each electoral division and allocate those to local members. If there are more seats on an outside body than local members then the political balance would be applied. For those local bodies which are strategic in nature representation by a specific Cabinet Portfolio would be appropriate.

If a consensus on the allocation of seats to Members within the electoral division cannot be reached, should the division be represented by Members from different parties and agreement cannot be reached, the party with the largest proportion of seats on the Council would be allocated the seat.

- (iii) the bodies which are not local to a particular electoral division, for example, those with a County or Regional remit, shall be appointed to in accordance with the overall political proportionality of the Council, except in the case of bodies providing services in one particular locality, when the membership would be from that locality.



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## **Appendix 1: Implications**

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**Legal Implications** – The Council is required at its annual meeting to decide the appointments to the joint bodies, and other bodies to which the Council is invited to nominate representatives. The allocation of seats to political groups must be in accordance with the provisions of Sections 15 and 16 of the Local Government and Housing Act 1989.

**Finance** – None specific within this report

**Staffing** – None specific within this report

**Risk** – None specific within this report

**Equality and Diversity/ Public Sector Equality Duty** – None specific within this report

**Climate Change**- None specific within this report

**Accommodation** – None specific within this report

**Crime and Disorder** – None specific within this report

**Human Rights** – None specific within this report

**Procurement** – None specific within this report

**Disability Issues** – None specific within this report

**Consultation** – As set out in the report

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**Appendix 2: Joint Body – County Durham and Darlington Fire and Rescue Authority**


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**Seats to be allocated in accordance with political proportionality and as per agreement set out in Paragraph 4a**


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	Combined number of Seats	126		126		126		126		126		126		126		126	
		Labour		Conservative		Liberal Democrat		DG		DCCIG		ST		TUG		CDI	
		56		22		17		13		9		3		3		3	
		44.44%		17.46%		13.49%		10.32%		7.14%		2.38%		2.38%		2.38%	
Combined Fire Authority	21	9	9.33	4	3.67	3	2.83	2	2.17	1*	1.50*	*	0.50	*	0.50	*	0.50

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## **Appendix 3: Membership of the Charter Trust for the City of Durham**

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### **Membership of the Charter Trust for the City of Durham**

1. Members representing any of the electoral areas as set out below which remain wholly within the original Charter Trustees boundary:-
  - Belmont
  - Brandon
  - Coxhoe
  - Durham South
  - Elvet and Gilesgate
  - Framwellgate and Newton Hall
  - Neville's Cross
  - Sherburn
2. The three Elected Members of the Deerness Electoral Division.
3. The Trustees representing the Trimdon and Thornley: Willington and Hunwick; and Esh and Witton Gilbert areas be one Member from each of these areas receiving the highest number of votes for their Electoral Division at the 2021 County Election.
4. The three additional Trustees representing the wider area are below.  
(NOTE: For the municipal year 2021/22 the Council did not appoint to the three additional trustee positions listed below).
  - The existing Chairman of the County Council (If the Chairman was a Charter Trustee as of right, the position would not be filled by another member)
  - A Cabinet Member
  - An additional Member appointed by the Leader of the Council.

## Appendix 4: Police and Crime Panel

The seats must be politically proportionate to the total number of councillors in the Force area as shown below (10 seats):-

Authority	LAB	CON	LD	DG	DCCIG	Ind (DBC)	Green (DBC)	Unaligned Group	S and T	CDI	Total
Durham	56	22	17	13	9			3	3	3	126
Darlington	24	15	3			1	7				50
<b>Total</b>	<b>80</b>	<b>37</b>	<b>20</b>	<b>13</b>	<b>9</b>	<b>1</b>	<b>7</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>176</b>

	Lab	Con	Lib Dem	DG	DCCIG	Ind (Darl)	Green (Darl)	Unaligned Group	S and T	CDI
Proportion	80/176	37/176	20/176	13/176	9/176	1/176	7/176	3/176	3/176	3/176
%	45.45	21.02	11.36	7.39	5.11	0.57	3.98	1.70	1.70	1.70
Actual Seats	<b>5 seats</b> (4.55)	<b>2 seats</b> (2.10)	<b>1 seat</b> (1.14)	<b>1 seat</b> (0.73)	<b>1 seat</b> (0.51)	<b>0 seats</b> (0.06)	<b>0 seats</b> (0.40)	<b>0 seats</b> (0.17)	<b>0 seats</b> (0.17)	<b>0 seats</b> (0.17)

### Durham County Council

7 seats - Labour 3; Conservative Group 1; Liberal Democrat 1; The Durham Group 1 and DCC Independent Group 1

### Darlington Borough Council

3 seats - Labour 2; Conservative 1



## County Council

22 May 2024

### Appointment of Co-opted Independent Members to the Audit Committee

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#### Report of Paul Darby, Corporate Director of Resources

##### Electoral division(s) affected:

None.

##### Purpose of the Report

- 1 To invite Council to appoint three co-opted Independent Members to the Audit Committee.

##### Executive summary

- 2 Durham County Council's Audit Committee currently has two co-opted Independent Members who are appointed in accordance with CIPFA's Position Statement: Audit Committee's in Local Authorities and Police 2022, which recommends that the audit committees of local authorities should include at least two co-opted members to provide appropriate technical expertise. The current Independent Persons were appointed in accordance with authority granted by Full Council on 31 October 2018 and their term was subsequently extended by Full Council on 18 October 2023 until 30 April 2024 with agreement that a recruitment exercise would be undertaken prior to that date to secure co-opted members from 1 May 2024 onwards.
- 3 The existing appointees were free to re-apply for these roles in open competition with any other applicants and on 18 October 2023, Council agreed for the term of office for the new co-opted Independent Audit Committee members to be for a fixed term of three years.
- 4 This report summarises the outcome of the recruitment exercise that has been undertaken and recommends that three co-opted Independent Members are appointed to the Audit Committee with effect from 1 May 2024.

## Recommendation

5 Council is recommended:

- (b) To formally record its thanks to Clive Robinson and Ian Rudd for their service to date as co-opted Independent Members to the Audit Committee since 2018.
- (b) To increase the co-opted Audit Committee membership from two to three members with effect from 1 May 2024.
- (c) Subject to the outcome of the Audit Committee meeting on 20 May 2024, to reappoint Clive Robinson and Ian Rudd and also appoint Francis Barnish as a new co-opted Independent Member to the Audit Committee with effect from 1 May 2024 with all three appointments being for a fixed term of three years.

## Background

- 6 CIPFA's Position Statement: Audit Committee's in Local Authorities and Police 2022 recommends that the audit committees of local authorities should include at least two co-opted members to provide appropriate technical expertise. The council meets this requirement and currently has two Independent Co-opted Members appointed to its Audit Committee.
- 7 The role, membership and terms of reference of the Audit Committee are set out within the Constitution, which is approved by Council.
- 8 Good corporate governance requires independent and effective assurance processes, underpinned by robust risk management arrangements, to be in place to ensure effective financial management and reporting in order to achieve the Council's corporate and service objectives. It is the responsibility of the Audit Committee to oversee that these arrangements are in place and operating effectively.
- 9 The specific objectives of the Audit Committee, as set out in the Council's Constitution are to provide independent assurance to Cabinet and Full Council over the:
  - Adequacy and effectiveness of the Council's governance arrangements, including the effectiveness of the risk management framework and the associated control environment.
  - Financial Reporting of the Council's Statement of Accounts ensuring that any issues arising from the process of finalising, auditing and certifying the Council accounts are dealt with properly.
- 10 The existing two Co-opted Members of the Audit Committee were appointed in accordance with authority granted by Full Council on 31 October 2018 and their term was subsequently extended until 30 April 2023.
- 12 As part of the review of the constitution in 2023 it was not picked up that the tenure of the two co-opted members had expired, with both continuing to attend meetings of the Audit Committee and making positive contributions to the discussions held.
- 13 On 18 October 2023, Council considered a report, which set out the proposal to extend the term of office of the current co-opted Audit Committee members until 30 April 2024, with agreement that a recruitment exercise would be undertaken prior to that date to

secure co-opted members from 1 May 2024 for a fixed term of three years.

## Recruitment Process

- 14 Council approved the following indicative recruitment timetable:

<b>Recruitment Stage</b>	<b>Timescale</b>
Positions Advertised	Monday 15 January 2024
Deadline for applications	Friday 23 February 2024
Interviews to be held	w/c 18 March 2024
Member Induction	April 2024
Audit Committee	Monday 20 May 2024
Appointments Confirmed by Council	Wednesday 22 May 2024

- 15 The roles were advertised on the Council's website on 15 January 2024 and were also promoted on the Council's social media pages. Five applications were received and the Panel (consisting of the Chair and Vice Chair of the Audit Committee and the Chief Internal Auditor and Corporate Fraud Manager) decided to shortlist all five candidates. Interviews took place on 20 and 26 March 2024. A copy of the role profile and person specification are attached at Appendix 2 for information.
- 16 The candidates were asked a series of questions to test their suitability for the role against the criteria set out in the person specification.
- 17 The Panel decided to recommend Clive Robinson and Ian Rudd for reappointment, and to also recommend that a third Co-opted Independent member be appointed, Francis Barnish, thus increasing the Co-opted Audit Committee membership from two to three members. All three candidates demonstrated that they met the criteria for the role, and had a good understanding of the role and an enthusiasm to support the Audit Committee.
- 18 Subject to Council approving their appointment, three co-opted Independent Members will be appointed to the Audit Committee for a fixed three-year term commencing on 1 May 2024.
- 19 Once appointed, arrangements will be made for the induction and relevant Audit Committee training to be provided.



## **Background papers**

- Report of the Audit Committee for the Period September 2022 to August 2023 – County Council 18 October 2023.

## **Other useful documents**

□ None

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## **Appendix 1 - Implications**

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### **Legal Implications**

None. The council's arrangements satisfy CIPFA's Position Statement: Audit Committee's in Local Authorities and Police 2022, which recommends that the audit committees of local authorities should include at least two co-opted members to provide appropriate technical expertise.

### **Finance**

The role of Co-opted Independent Audit Committee Members is not remunerated. However, the Council will reimburse reasonably incurred travel and subsistence expenses. Where appropriate, the Council will pay for the Independent Persons to attend training. These costs are met from the Legal and Democratic Services budget.

### **Consultation**

On 18 October 2023 Full Council considered a report which set out proposals to conduct a recruitment process to appoint Independent Co-opted members to the Audit Committee for a period of three years from 1 May 2024. The Chair and Vice Chair of the Audit Committee participated in the recruitment process, including shortlisting and the subsequent interview process, alongside the Head of Internal Audit and Corporate Fraud Manager.

### **Equality and Diversity / Public Sector Equality Duty**

The recruitment exercise was conducted in accordance with the Council's recruitment arrangements in relation to equality and diversity to ensure fairness.

### **Climate Change**

None.

### **Human Rights**

None.

### **Crime and Disorder**

None.

### **Staffing**

None.

### **Accommodation**

## **Risk**

The proposals in this report seek to extend the Co-opted Independent Membership of the Audit Committee to three, which will further strengthen the Councils already strong arrangements through its Audit Committee.

## **Procurement**

None.

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## **Appendix 2 – Co-opted Independent Audit Committee Member Role Profile & Person Specification**

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### **Independent Audit Committee Member**

#### **Role Description and Person Specification**

##### **About the Audit Committee**

Durham County Council's Audit Committee provides challenge and assurance on the Council's control environment, mainly focusing on risk, control, governance, and financial issues, to support the council in ensuring that it is well managed and able to deliver its priorities.

##### **Main duties and responsibilities**

To be one of the co-opted members (non-voting) of the Authority's Audit Committee to serve alongside the 9 elected County Councillors to assist the Council in maintaining high standards of corporate governance.

The Audit Committee has the following functions:-

The Audit Committee considers and approves the Annual Statement of Account and is an advisory committee to the Council and the Executive (Cabinet) on audit and governance issues in order to provide independent assurance over the adequacy of the Council's risk management framework and associated control environment. In particular the Audit Committee will:

- Consider and comment on reports from the External Auditor and consider the External Audit Annual Management Letter and reports.
- Consider and comment on the council's annual Final accounts in accordance with accounting policies and codes of practice.
- Consider and comment on the Annual Governance Statement and recommend it for signature by the Chief Executive and the Leader of the Council for publication in the Statement of Accounts

- Consider and comment on reports from the Head of Internal Audit on internal audit reviews undertaken in accordance with the Annual Audit Plan.
- Consider any significant issues arising from external or internal audit work.
- Consider and comment on the annual internal audit strategy, audit charter and the annual audit plan.
- Consider and comment on the Head of Internal Audit's annual report and assurance opinion and a summary of internal audit activity, together with the level of assurance provided over the Council's corporate governance arrangements.
- Monitor and comment on the effective development and operation of risk management policy in the Council.
- Monitor and comment on the Council's arrangements to protect the Council from fraud, bribery and corruption, including the review of the Counter Fraud and Corruption Strategy, the Fraud Response Plan and Corporate Fraud Sanctions policy and the Confidential Reporting (Whistle Blowing) Policy.
- Monitor and comment on the report of the Corporate Director of Resources detailing the Counter Fraud work completed annually in order to protect the public purse.
- Consider and comment on reports from the Corporate Director of Regeneration, Economy and Growth which provided an update on health, safety and wellbeing performance.
- Review the Treasury Management Policy and Strategy and make recommendations on risk control measures.
- Any other audit and assurance related responsibilities as may from time to time be allocated.

## **Commitment**

The Audit Committee usually meets 5/6 times a year in February, May, June, July, Sept and November.

Meetings are held in person at County Hall located in Durham City and last around 2 and half hours. Candidates should have the time and commitment to prepare for and attend meetings during normal working hours, as well as attend any appropriate training sessions.

## **Person specification**

### **Experience**

You will be a person who has experience of working in a medium / large organisation at a senior level or other experience which would give similar benefits.

Financial management experience (accountancy, audit or management of a large budget) would be advantageous.

### **Skills**

You will have:

- an ability to understand complex issues and the importance of accountability and probity in public life
- an ability to analyse and question written and verbal reports on financial, audit and risk management activities
- an understanding of the need for independence of audit from daily management responsibilities
- an ability to demonstrate integrity and discretion
- effective interpersonal skills
- be able to maintain strictest confidentiality of sensitive information

### **Knowledge**

All members of the Audit Committee should have, or should acquire as soon as possible after appointment:

- an understanding of the objectives and key activities of the Council and current major initiatives and significant issues for the Council
- an understanding of the Council's structures and responsibilities, including key relationships with partners, businesses and organisations
- an understanding of the Council's culture
- an understanding of any relevant legislation or other rules governing the Council
- an understanding of corporate governance arrangements in place across the Council
- an understanding of the governance environment generally
- an understanding of risk management and internal control

## **Other**

You must:

agree to sign up to the Council's Code of Conduct which sets out the standards of behaviour expected of Councillors, including confidentiality agreements which Co-opted Members will be expected to abide by.

A connection to Durham County Council is also desirable i.e., you live in the County, work in the County, or have other recognisable ties to the area.

### **Co-opted(non voting members) members must not:**

- be a Councillor or officer of the Council or have been so in the preceding five years prior to appointment.
- be related to, or a close friend of, any Councillor or officer of Durham County Council.
- have any criminal convictions. The Council has the right to DBS check any independent committee members.
- be an undischarged bankrupt.
- have significant business dealings with the Council.
- have a formal connection with any political group.
- have a proven history of vexatious and/or frivolous complaints against Durham County Council.
- be the holder of a significant office in an organisation being grant aided/supported by Durham County Council.
- have had any significant business dealings with the council.

## **Remuneration**

This role is not remunerated.

Travelling and subsistence expenses will be paid in respect of attendance at meetings and training will be provided.

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County Council

22 May 2024

Horden By-Election



**Statement of County Returning Officer**

Following a by-election held on 2 May 2024 in the Horden Electoral Division, I formally submit below a Statement for the information of the County Council showing details of the person elected as a County Councillor:

ELECTORAL DIVISION	NAME OF PERSON ELECTED
HORDEN	June CLARK  LABOUR

**JOHN HEWITT**  
Returning Officer

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