



RECORD OF EXECUTIVE DECISIONS

The following is a record of the decisions taken at the meeting of **CABINET** on **THURSDAY 28 AUGUST 2008**.

These decisions will come into force and may be implemented from **9 SEPTEMBER 2008**, unless the Overview and Scrutiny Committee or its Sub-Committees object to any such decision and call it in.

Budget & Medium Term Financial Plan 2009/10 – 2011/12 Strategy and Work Programme Budget Monitoring and Forecast Outturn 2008/09

Summary

The Cabinet considered a Report of the County Treasurer proposing-

- A process and an outline timetable for the production of the 2009/10 Budget and the Medium Term Financial Plan (MTFP) for 2010/11 – 2011/12 for the new Unitary Authority.
- The framework to help prepare the MTFP for the new Unitary Authority.
- The establishment of the budget strategy for the new Unitary Authority.
- The framework for budget monitoring through 2008/09 and for forecasting the 2008/09 outturn for the County Council.

A timetable for the production of the revenue and capital budgets and the MTFP would take into account:

- The creation of the new Unitary Council, and estimates included in the "Bid Document" prepared by the County Council and accepted by Government.
- A review of Council priorities.
- The targets of the Local Area Agreement.
- A review of progress during the current year.
- Member decision making and scrutiny.
- Consultation requirements.
- Government announcements.
- Annual Efficiency Statements (as a successor to the Gershon regime).
- Comprehensive Performance Assessment Framework (CPA).
- An analysis of the risks involved.

The Budget and MTFP will be managed through the structures of the existing County Council. The process will apply to both Revenue and Capital expenditure proposals. However, in respect of capital, additional steps will be necessary to consider an over-arching property strategy and “ranking” or “scoring” to identify priority projects.

The revenue and capital budget will be monitored on a monthly basis (excepting April) by each of the services and reviewed centrally by the County Treasurer and reported to Corporate Management Team (CMT).

Reports will be presented to CMT and Cabinet on a quarterly basis for the year to June, September, November (this is a two month period but facilitates the incorporation of this revised estimate into the budget process) and March.

Decision

The Cabinet agreed the budget strategy for revenue, the budget strategy for capital, the proposed work programme and timetable for budget preparation and reporting, and the need to work cohesively and flexibly in the budget process across the former County and District structures was noted and welcomed.

Business as Usual-Consett Sports Project

Summary

The Cabinet considered a report of the County Treasurer regarding the appointment of consultants to examine proposals by Derwentside District Council to design and build a sports facility.

Derwentside District Council has applied for approval to proceed with the development of a sports facility in Consett. The scheme is estimated to cost £15m.

In light of the project’s complexity and scale, InsightMSC* - the County Council’s financial partner would be engaged to undertake a review and to prepare a report for Cabinet to consider as soon as possible.

Decision

The Cabinet agreed that the County Treasurer be authorised to engage Insight at a cost to be agreed in consultation with the Cabinet Portfolio Holder for Corporate Resources.

Annual Report 2007/08

Summary

The Cabinet considered a Joint Report of the Head of Policy and Improvement, and County Treasurer providing a draft version of the Council’s Annual Report for 2007/08. The final published document will be available by the end of September 2008.

The draft Annual Report 2007/08 represents the backward look at last year and contains examples of achievements during 2007/08 in relation to the Council's five high level outcomes: Healthier Communities, Safer Communities, People Enjoying, Achieving and Making a Positive Contribution, Economic Wellbeing and an Improved Environment. It also contains the final outturn for BVPIs in 2007/08 and incorporates a Summary of the Accounts for 2007/08 to provide a brief overview of the Council's financial position as at 31 March 2008.

The accounts included at this stage are subject to audit. The final version of the Annual Report will include a summary of the County Council's published and audited accounts. The full Statement of Accounts will be available on the Council's website from 30th September.

Decision

The Cabinet endorsed the draft Annual Report prior to final publication.

Ceremonial Issues arising from Local Government Review

Summary

The Cabinet considered a Report of the Acting Director of Corporate Services relating to various ceremonial matters to inform the Department for Communities and Local Government of local wishes, and to appraise the Cabinet of emerging legislation on related matters.

The Report set out a number of ceremonial matters upon which DCLG have requested local views:

- whether and how historic traditions or status, currently enjoyed by some District Council areas, are to be protected;
- the protection of Charters or other Crown grants of city or borough status, in relation to Durham City and Sedgfield Borough;
- insignia and armorial bearings;
- the appointment of Honorary Aldermen;
- views on matters associated with all of these privileges and rights.
- the community governance review relating to the unparished area of Durham City

Under the Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008, which take effect on 29 August, the power to implement recommendations arising from the community governance review, will be exercisable after that date by the County Council, as successor council.

On previous re-organisations, Councils which were due to be abolished were permitted to appoint Honorary Aldermen from amongst their existing members. DCLG have informed the Council that they intend to follow this

precedent once again. In addition, the newly created Aldermen of an outgoing authority will become Aldermen of the new authority.

A protocol to govern arrangements for dealing with artefacts, memorabilia, insignia, etc., currently held by District Councils would be drawn up. It would also be useful to set out some general and practical principles to be adopted for the purposes of settling their future destination and providing some general accountability in that respect.

Clarification was received on the position of Charter Trustees in relation to property that they might hold. DCLG have advised that Charter Trustees will not be able to hold land, nor will land and buildings be transferred to them. However, the new authority will be required to provide appropriate accommodation to those Charter Trustees to carry out their duties.

Decision

The Cabinet:-

- (1) In relation to Durham City:
 - (a) confirmed and ratified the actions of the Acting Director of Corporate Services in submitting an application to the Ministry of Justice, jointly with the support of Durham City Council, to secure the continuance of City Status.
 - (b) recommend to DCLG that Charter Trustees be appointed by the County Council from the county-wide membership of the Durham Unitary Authority for the reasons set out in this report and to notify DCLG accordingly.
 - (c) supported the continuation of the community governance review being undertaken by Durham City Council for their unparished area.
- (2) In relation to Sedgefield Borough to recommend to DCLG that their suggestion be accepted, viz to transfer civic and ceremonial privileges and rights to the Sedgefield Town Council and to notify DCLG accordingly.
- (3) Noted the position regarding Aldermen and other matters and receives further reports as appropriate
- (4) Approved the protocol relating to District artefacts, etc.

Admission Arrangements for Durham Johnston Comprehensive School for September 2009: Decision of the School Adjudicator

Summary

The Cabinet considered a Report of the Corporate Director, Children and Young Peoples Services about the decision of the Schools Adjudicator relating to the admission arrangements for Durham Johnston Comprehensive School for school year September 2009 and the wider implications for school admissions across the County.

On 9 July 2008 the Schools Adjudicator presented his decision and determined that for September 2009, the admission arrangements for Durham Johnston School should remain as the existing criteria with distance measured from either the Crossgate Moor or the Winning Hill Site. He further ruled that these arrangements could not be extended beyond 2009 and that the County Council must embark on a new round of consultations to help determine criteria for September 2010 and beyond. He also stated that the designation of associated transport areas was entirely arbitrary, that some areas are not associated with the closest school and that this criterion was not open, fair nor objective.

The Schools Adjudicator report has wider implications, particularly in relation to Associated Transport, rurality and using distance as a tie-breaker. He goes on to say that the use of catchment areas or feeder primary schools are highlighted as the commonest kind of arrangements in other areas where there is mixed urban and rural housing

In the Autumn Term 2008 the County Council must consult all Governing Bodies on the admission arrangements for their school for year 2010/2011. As part of this consultation Senior Officers intend to:

- write to the Governing Body of Durham Johnston School and local members seeking their initial views on what the admission criteria should be and what tie-breaking strategy the Council should adopt in the event of the school being over subscribed;
- invite parent representatives from Durham Johnston School to meet with Senior Officers to gain comments on what they feel would be appropriate admission criteria for the school; and
- consult the Admissions Forum concerning the implications of the Adjudicator's report for Durham Johnston School and for the County as a whole for admission arrangements from September 2010.

It is intended to consult all parents and other interested parties in the County by way of a public notice and consultation leaflet seeking views on the admission arrangements for all schools in County Durham.

Decision

The Cabinet noted the finding of the Schools Adjudicator and that his determination will be implemented, so setting aside the Cabinet's choice of admissions criteria for Durham Johnston School September 2009; and agreed

that officers now consult widely on admission arrangements for September 2010 and beyond.

Building Schools for the Future (BSF) Facilities Management Service Provision for PFI Schools and Co-located Schools

Summary

The Cabinet considered a Joint Report of the Corporate Director Children and Young People's Services and the County Treasurer proposing policy recommendations for PFI schools in respect of cleaning and catering service provision and the provision of primary schools on the same sites as PFI schools.

The consortium bidding to be Durham's private sector partner in its BSF project is *inspiredspaces* (IS). IS have submitted two sets of proposals, one with the provision of these services and one without. The BSF Project Team had evaluated the proposals.

There is no clear advantage to schools in retaining control over cleaning services. Schools would have only limited flexibility in respect of the provision of this service.

Schools would have more flexibility over the provision of school catering services. The increasing importance of school catering is making more schools interested in running this service.

Given the differences between cleaning and catering, it was recommended that the Council adopts a standard position that the contractor provides cleaning services, but that schools retain responsibility for catering services.

This would form a standard position for all PFI schools, but if there was a convincing argument for varying this position, then it would be possible to review this for individual schools. One factor that would need to be taken into account in such a review is that it is likely that PFI contracts will cover more than one school, and the review would need to consider the disadvantages of having two schools in the same contract with different service provision.

In relation to Co-located Primary Schools there is a financial advantage to these schools being PFI schools, due to the efficiencies generated by having both schools in the same contract, and also because of the additional funding for lifecycle maintenance.

Consultation with primary schools has identified concerns about PFI in respect of having staff employed by a contractor on site. The number of staff onsite, particularly during the school day, would be limited.

The standard position for co-located primary schools is that they are constructed as part of a PFI contract, which would normally include cleaning

services, but not catering services. This position would be reviewed for each project and if there were compelling reasons for doing so, the co-located school could be the subject of a separate D&B contract.

Decision

The Cabinet agreed that schools built as PFI schools have cleaning services provided by the PFI contractor, but retain responsibility for catering, subject to review on a school-by-school basis. Where a primary school is to be rebuilt on the same site as a PFI school, it will be constructed as part of the PFI contract, subject to review on a school-by-school basis.

New Roads and Street Works Act 1991- Fixed Penalty Notices

Summary

The Cabinet considered a Joint Report of the Acting Corporate Director Environment and the Acting Director of Corporate Services proposing a new delegated authority to issue Fixed Penalty Notices under the Traffic Management Act 2004 and the New Roads and Street Works Act 1991.

New provisions under Section 41 of the Traffic Management Act 2004 (TMA) which amends Section 95A of the New Roads and Street Works Act 1991 (NRSWA) came into force on 12 May 2008. The provisions enable the Street Authority to give fixed Penalty Notices (FPNs) to Statutory Undertakers (SUs) who fail to issue correct notices to carry out works on our road network.

Under current delegations (Constitution of the County Council Table 3) the Director of Corporate Services is able to sign any document on behalf of the Council in connection with legal or enforcement proceedings relating to (inter alia) the New Roads and Street Works Act 1991. However, in view of the possible volume of FPNs that might be issued; and the electronic means of serving the FPN, the delegation for FPNs would be more appropriately placed with the Corporate Director, Environment.

Decision

The Cabinet agreed that for Fixed Penalty Notices issued in accordance with Section 95A of the New Roads and Street Works Act 1991, the Authorised Officer named on the Fixed Penalty Notice is the Corporate Director, Environment.

Civil Parking Enforcement Standing Orders: Durham District

Summary

The Cabinet considered a Report of the Acting Corporate Director Environment setting out the requirement of the Authority to specify the officers having the authority to cancel parking tickets issued by a Civil Enforcement Officer following the implementation of Civil Parking Enforcement in Autumn 2008.

Civil Parking Enforcement is to be introduced in Durham District in Autumn 2008. Following its introduction vehicles considered as being in contravention of on street or off street parking restrictions may be issued with a parking ticket (PCN).

'The Secretary of State's Statutory Guidance recommends to local authorities on the civil enforcement of parking contraventions' that a clear separation exists between the staff who decide on representations. The office of the Chief Executive will be responsible for the consideration of all cases referred back from the adjudicators. It should be noted that the Authority is responsible for the whole Civil Parking Enforcement process whether they contract out part of it or not.

The Authority's standing orders should be specific as to which officers have the authority to cancel parking tickets (PCNs).

The Acting Chief Executive confirmed that any disputes would be reported back to Members through the Performance Management Reports.

Decision

The Cabinet agreed the designation of the following officers to cancel parking tickets (PCNs):-

- Corporate Director, Environment;
- Officers responsible for management of the parking function as designated by the Corporate Director, Environment.

Free Swimming

Summary

The Cabinet considered a Report of the Acting Corporate Director of Environment about the Department of Culture Media and Sport (DCMS) grant aid scheme for Local Authorities to provide free swimming to those aged 60 years and over and those aged 16 years or under, and establishing the criteria for grant application and providing details of the implications and opportunities of participation.

The Department of Culture Media and Sports (DCMS) has announced a grant aid scheme for Local Authorities to provide free swimming to those aged 60 years and over and those aged 16 years or under.

DCMS has confirmed that a grant of £159,834 p.a. will be available to the new unitary authority for the financial years 2009/10 and 2010/11 to enable those 60 years and over free access to swimming.

Decision

The Cabinet agreed to submit a positive expression of interest to DCMS to make swimming for both age categories identified above, free of charge in all community swimming pools within the County in line with the grant conditions to enable the Districts to take up the Governments offer.

**Part B Items during which the meeting was not open to the public
(Consideration of exempt or confidential information).**

Heighington Lane West Business

Summary

The Cabinet noted a Joint Report of the Acting Director of Corporate Services and Managing Director of County Durham Development Company providing an update on the sale of the land to Merchant Place Developments.

Kromek Ltd, Facility at NETPark

Summary

The Cabinet considered a Report of the Managing Director of County Durham Development Company seeking agreement to facilitate the development of a business unit on behalf of Kromek Ltd.

Decision

The Cabinet agreed that the Authority facilitates the development of the required facility.

Lesley Davies, Acting Director of Corporate Services

1 September 2008