



RECORD OF EXECUTIVE DECISIONS

The following is a record of the decisions taken at the meeting of **CABINET** on **WEDNESDAY 10 APRIL 2013**.

The decisions will come into force and may be implemented from **MONDAY 22 APRIL 2013** unless the Overview and Scrutiny Management Committee or its Committees object to any such decision and call it in.

School Admission Arrangements Academic Year 2014/15 **Key Decision: CAS/01/12**

Summary

The Cabinet considered a report of the Corporate Director, Children and Adults Services relating to the proposed admission arrangements for Community and Voluntary Controlled Schools for the 2014/15 academic year.

It is a mandatory requirement of the national School Admissions Code that all schools must have admission arrangements that clearly set out how children will be admitted, including the criteria that will be applied if there are more applications than places at the school (oversubscription). Admission arrangements are determined by admission authorities. The Local Authority (LA) is the admission authority for Community and Voluntary Controlled Schools, while the Governing Body is the admission authority for Voluntary Aided and Foundation Schools and the relevant Trust for an Academy or Free School.

All admission authorities must agree admission arrangements annually and, where changes are proposed, the admission authority must first consult on those arrangements. The consultation period allows parents, schools, religious authorities and the community to raise concerns about the proposed admission arrangements. Stakeholders are consulted on:

- The number of pupils to be admitted in each year group (the Published Admission Number (PAN));
- The application and administrative procedures for admissions, including LA co-ordination with other admission authorities;
- The criteria to be used in the event of over-subscription;

The only change proposed to the current admission arrangements that required consultation was a reduction in the Published Admission Number for a small number of schools, namely Seascope Primary, Beamish Primary, Cockton Hill Junior, Bearpark Primary, Cotsford Infant, Vane Road Primary and Startforth Morritt

Memorial CE Primary to take account of recent capacity reassessments. The proposed reduction to the PAN in each case was accepted by Governing Bodies and no other comments were received from any other consultees. The proposed PAN for each Community and Voluntary Controlled School were detailed in Appendix 2 to the report, which also included admission numbers for Voluntary Aided, Foundation Schools and Academies where notified, for information. The admission arrangements in respect of Community and Voluntary Controlled schools, for which no changes were proposed were included at Appendix 3.

A risk assessment has been undertaken on the proposed admission arrangements for 2014/2015. There will be a breach of statutory duty imposed on the LA if admission arrangements are not determined by 15 April 2013 and published on the Council's website by 1 May 2013.

Decision

The Cabinet agreed that in relation to Community and Voluntary Controlled Schools:-

- That the PANs (including those that have had a reduction to the PAN), as recommended in Appendix 2, be approved
- That the current admission arrangements, at Appendix 3, be approved

NHS Reforms and the transfer of public health functions to Durham County Council

Summary

The Cabinet considered a joint report of the Corporate Director, Children and Adults Services, and Director of Public Health County Durham that provided an update on developments in relation to NHS reforms, including the transfer of public health functions to Durham County Council from NHS County Durham.

Cabinet has been presented with quarterly update reports on NHS reforms and public health since June 2011. These reports provided details on significant policy developments in relation to the wider NHS reforms and the transfer of public health functions to local authorities.

On 1st April 2013, Strategic Health Authorities and Primary Care Trusts were abolished, Clinical Commissioning Groups took on responsibility for health care budgets for their local communities and Local Healthwatch was established to give local people a say in how health and social care services are provided.

In addition, Health and Wellbeing Boards became responsible for:

- Supporting integrated working between health and social care commissioners and providers, and encouraging the use of, for example, pooled budgets, lead commissioning and integrated provision.

- Involving local people in certain elements of their work, reflecting the government's plans for stronger democratic legitimacy and community involvement in health and social care.
- Tackling health inequalities and leading on the development of a local Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy.

Also on 1st April 2013, Durham County Council assumed its new role across the three domains of public health (health improvement, health protection and health services) and, in addition to improving the health of local people, the council is now required to ensure that NHS commissioners are provided with public health advice.

During the transitional phase, the pace of change has been fast and there have been challenges to face, as the new NHS system is complex and will need time to embed. Throughout the transitional phase there has been regular reporting to Cabinet, and to both the Adults, Wellbeing and Health and Children and Young People's Overview and Scrutiny Committees in order to keep key stakeholders up to date and aware of these important issues. Moreover, partners have continually worked together to try to ensure a smooth transition but the process has been difficult. Delays were experienced with the public health finance allocations and regulations were also delayed in areas such as the Health and Wellbeing Board. These issues have been managed carefully by Durham County Council working with partners.

Decision

The Cabinet agreed to accept the report and to receiving further quarterly reports for the next twelve months in order to update Cabinet on any further emerging issues linked to the transition.

Alcohol Harm Reduction Strategy 2012-15

Summary

The Cabinet considered a joint report of the Corporate Director, Children and Adults Services and Director of Public Health County Durham that provided an update on the County Durham Alcohol Harm Reduction Strategy 2012-15.

The Government's Drug Strategy, *'Reducing Demand, Restricting Supply, building Recovery: Supporting people to live a drug free life'* was published in 2010. One of the key themes was to increase the number of people recovering from dependence of all drugs including alcohol. The Government's *Alcohol Strategy* which was published in March 2012 aims to:

- tackle the availability of cheap alcohol
- work with the alcohol industry and regulators on advertising standards
- give a range of tools and powers to enable local agencies to work more effectively with the licensed trade
- secure the alcohol industry's support to change individual drinking behaviour by building on the Responsibility Deal
- support individuals to make informed choices

The partnership approach to tackling alcohol related harm in County Durham was identified as a model of good practice following the publication of the Government's Alcohol Strategy and is available on the Alcohol Learning Centre website.

The Safe Durham Partnership launched its initial three-year Alcohol Harm Reduction Plan in July 2009 and established a multi-agency Strategic Alcohol Group to drive forward its implementation. The group is accountable to the Safe Durham Partnership, but also reports to the Health and Wellbeing Partnership. The Alcohol Harm Reduction Strategy was underpinned by an action plan which has been reviewed annually. Progress against actions is monitored at the three subgroups - Alcohol Prevention, Alcohol Control and Alcohol Treatment.

In 2010/11 the total annual investment secured across the partnership was £4.6 million. The local work has been informed by a comprehensive health needs assessment which has been used to inform the Joint Strategic Needs Assessment. Examples of Achievements from 2009-12 were presented in Section 8 of the draft strategy.

There was a need to refresh the Alcohol Harm Reduction Strategy in light of the new Government Strategy, findings from the Alcohol Health Needs Assessment as well as progress from the previous three years. A stakeholder event was held in May 2012 with professionals, council members, officers, service users and carers to refresh the local strategy. The day included a presentation on the alcohol profile in County Durham and a showcase of the achievements to date. Stakeholders provided feedback on the current objectives and identified areas for action for the forthcoming years.

The aim of the Strategy is *to reduce the harm caused by alcohol to individuals, families and communities in County Durham while ensuring that people are able to enjoy alcohol responsibly*. The refreshed Strategy has 8 strategic objectives under the three themes of the Strategy which are prevention, control and treatment.

The Strategy is also underpinned by some key performance indicators which are monitored by the Alcohol Harm Reduction Group on a quarterly basis and reported to the Safe Durham Partnership.

The draft strategy has been presented to the Alcohol Harm Reduction Group and Safe Durham Partnership. It has been circulated for comment amongst stakeholders. It was approved formally by the Safe Durham Partnership and was publicly launched in the week commencing 19th November 2012 to coincide with Alcohol Awareness Week.

Decision

The Cabinet:

- Approved the County Durham Alcohol Harm Strategy 2012-15
- Noted the progress made since the launch of the County Durham Alcohol Harm Strategy 2009-12
- Noted the three themes and eight strategic objectives of the new strategy.

School Funding Reforms 2013/14 and Schools Financial Performance Monitoring

Summary

Cabinet considered a joint report of the Corporate Director, Resources and Corporate Director, Children and Adults Services which provided an update on changes to the way in which schools are funded and the impact on schools and Council services as a result of these changes, and, to review the existing financial governance arrangements within schools regarding budgetary control performance.

The arrangements for funding schools and academies through the Dedicated Schools Grant, and the amounts that can be retained centrally, change with effect from 1 April 2013.

The Dedicated Schools Grant for 2013-14 is £347.22m, which is allocated between three 'blocks':

- Early Years
- High Needs (for Special Educational Needs) and
- Schools.

The Schools Block also includes centrally retained expenditure.

The decision of the Schools Forum to discontinue central funding for Behaviour Support related services from within the Dedicated Schools Grant has required those staff affected to be served with s188 notices as their jobs were consequently at risk.

The formula used to distribute funding to primary and secondary schools is now much simpler, with a greater emphasis on distributing funding according to pupil numbers and needs and less emphasis on using costs as a basis. These changes have resulted in significant changes in formula funding for individual schools, but this is mitigated by the application of transitional adjustments which limit the changes in funding from year-to-year.

There are also significant changes affecting High Needs SEN funding for primary and secondary schools. Arrangements have been made to minimise the effect on schools that stood to lose out on funding under these changes.

Funding for special and nursery schools is also affected by the reforms. For special schools the implication of the reforms was that funding would be less predictable in the future, which raised concerns about the viability of these schools. The Authority has responded to these concerns and proposed a funding method that will give these schools more certainty over their funding.

The reforms also include changes to the role of the Schools Forum, which give it a greater role in some decisions, and limit local authority membership. Governance arrangements for the Forum have been reviewed in light of these changes and this will be fed into the Council's Constitutional Working Group in due course.

There will be a national funding formula from 2015-16, which will bring further changes. It is uncertain how a transitional protection scheme will operate in the new national formula.

The Schools Forum has written to the Secretary of State to express its concern about some of the potential adverse impact of a national funding formula on schools in Durham. The response acknowledged some of these concerns.

Schools' delegated budgets are ring-fenced and cumulative under and over spends are carried forward as surpluses and deficits. Where schools are required to become sponsored academies, due to failing an Ofsted Inspection, the deficit becomes a cost to the local authority.

In the light of this situation, and identified gaps in the current financial governance framework with regards to reporting of schools financial performance via Cabinet, greater scrutiny will be placed on school budget plans and deficit recovery plans in the future. This will also affect decisions about applications to the school loans scheme.

Five schools had deficits at the start of 2012-13, totalling £107,000 and 128 schools needed to use some of their brought forward surplus to balance their 2012-13 budgets. Forecasts for 2012-13 suggest that 113 schools will overspend their budgets in 2012/13, and that 8 schools will carry forward a deficit, estimated to be £381,000 in total. 22 schools will carry forward surpluses of less than 2% of their 2013/14 budget share, and of these three are primary or secondary schools facing a reduction in funding next year.

Where there are significant immediate concerns regarding schools, reports will be brought forward in the coming months to set out options and consequences on the Council in this regard.

Decision

The Cabinet:

- Noted the report and the consequential impacts of the School funding Reforms 2013/14, including the impact on the Behavioural Support Service following the delegation of this funding;
- Noted the potential impact of the National Funding formula from 2015/16;
- Noted the current position with regards to the schools balances / financial reporting arrangements and agreed to strengthened financial governance arrangements over schools budgets and financial performance monitoring and reporting as outlined in the report.

New Byelaws for Acupuncture, Tattooing, Semi-permanent Skin Colouring, Cosmetic Piercing and Electrolysis (To seek approval to create new Byelaws)

Summary

The Cabinet considered a report of the Corporate Director, Neighbourhood Services seeking approval to create new byelaws in respect of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis.

A report to Council on 20 February 2013 adopted the legislation that enables the local authority to create the byelaws. The Local Government (Miscellaneous Provisions) Act 1982 introduced specific controls for certain skin piercing activities such as ear piercing, tattooing, acupuncture and electrolysis. The controls enable Local Authorities to require the registration of such activities to ensure that operators meet hygienic standards. The principal reason for the introduction of the controls was related to the risks of transmission of blood borne diseases such as Aids and Hepatitis.

Since the initial controls were introduced there have been a number of developments in skin piercing primarily associated with fashion trends. Consequently the current practices of what are known as cosmetic body piercing for studs, rings etc., and also semi-permanent skin colouring are in effect unregulated. Local Authorities have expressed concern that these practices also pose potential health risks.

In recognition of these concerns the Government introduced, through Section 120 and Schedule 6 of the Local Government Act 2003, powers to require the registration of businesses which provide cosmetic piercing and skin colouring services. The powers must first be adopted by a Local Authority and regulation will be subject to compliance with a set of model byelaws.

Following local government review, any byelaws that had been previously adopted by the 7 former district authorities were transferred to Durham County Council and remain in force in the geographical areas of the former districts. These byelaws do not contain provision to deal with issues relating to cosmetic skin piercing, other than ear piercing, or semi-permanent skin colouring. Sections 14 to 17 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) come into effect within the area of County Durham on 14 May 2013, following the Council resolution of 20 February 2013. The adoption of these provisions enables the County Council to create byelaws controlling the activities of Acupuncture, Tattooing, Cosmetic Piercing and Electrolysis.

The 2003 Local Government Act amended the 1982 Act to give local authorities powers to regulate businesses providing cosmetic piercing. The Department of Health has recommended a set of model byelaws (Appendix 2 of the report), which it is intended that Durham County Council adopts in their entirety. The adoption of these byelaws will repeal existing byelaws dealing with this subject within County Durham.

Decision

The Cabinet agreed:

- To adopt the model byelaws in Appendix 2 of the report; and
- To make arrangements to apply the Council seal.

Annual Enforcement Programme Children and Young Persons (Protection from Tobacco) Act 1991 and Anti-Social Behaviour Act 2003

Summary

The Cabinet considered a report of the Corporate Director, Neighbourhood Services which reviews enforcement activities under the Children and Young Persons (Protection from Tobacco) Act 1991, the Anti-social Behaviour Act and the Licensing Act 2003 for the period April 2012 to March 2013 and sought Member approval of the proposed enforcement programme for 2013/14.

The County Council has a statutory duty to consider, at least once a year, the extent to which the Authority should carry out a programme of enforcement under the Children and Young Persons (Protection from Tobacco) Act 1991 and the Anti-social Behaviour Act 2003. These acts deal with the enforcement of underage sales of tobacco and aerosol paint containers respectively.

The County Council has statutory responsibility for enforcement of the following age restricted products:-

- Tobacco (Children and Young Persons (Protection from Tobacco) Act 1991)
- Spray paint containers (Anti-social Behaviour Act 2003)
- Alcohol (Licensing Act 2003)
- Videos and DVD's (Video Recordings Act 2010)
- Cigarette lighter refills (Cigarette Lighter Refill (Safety) Regulations 1999 and Consumer Protection Act 1987)
- Fireworks (The Pyrotechnic Articles (Safety) Regulations 2010 and Fireworks Act 2003)

The Authority has also adopted powers to enforce the age restricted sales of:-

- Solvents and glue (Solvents Intoxicating Substances (Supply) Act 1985)
- Knives (The Criminal Justice Act 1988, as amended by the Offensive Weapons Act 1996)
- Access to gaming establishments (Gambling Act 2005)
- Access to sunbed premises (Sunbeds (Regulation) Act 2010)

The enforcement of age related products has seen a shift away from routine test purchasing towards a more risk based and intelligence led approach to enforcement. This approach is epitomised within the new Code of Practice for Age Restricted Products developed by the Better Regulation Delivery Office (BRDO) of the Department for Business Innovation and Skills, The code recommends that test purchasing should only be carried out when there is intelligence suggesting sales are taking place and gives a strong steer towards encouraging local authority regulators to engage more with business and take a more holistic approach to solving age related product issues.

Whilst the authority already largely complies with the provisions of the new code it is envisaged that there is a need to be more explicit in justifying our actions in terms of outcomes and impacts. In this respect we shall be attending national workshops run by the BRDO to help develop a specialised toolkit to support the local regulation of age-restricted sales.

In addition to the above, recent changes to the Regulation of Investigatory Powers Act have affected the way local authorities conduct their directed surveillance activities. Fortunately the changes do allow for test purchasing to continue and directed surveillance can still be authorised for offences that attract a maximum custodial sentence of six months or more (this includes Trade Mark Act offences) or criminal offences relating to the underage sale of alcohol or tobacco. Where the local authority is considering conducting a test purchase exercise, consisting of one or more test purchase attempts consideration should also be made to the statutory requirements for authorisation under the Regulation of Investigatory Powers Act 2000 (as amended) and authorisations for use of covert methods would require an application for directed surveillance to the magistrate's court.

The proposed enforcement programme for the coming year will consist of the following activities:-

- (a) An intelligence led approach to under age sales enforcement and tobacco control based on the principles outlined in BRDO's Age Restricted Products Code of Practice.
- (b) Investigation of all consumer and trader complaints.
- (c) Visits to ensure continued compliance with new legislation relating to the display and pricing of tobacco products
- (d) Further development of joint working with the Police Alcohol Harm Reduction Unit and other agencies to adopt a holistic approach to solving problems associated with the accessibility and misuse of age related products. To include education, surveillance and test purchasing as well as other alternative enforcement strategies as appropriate.
- (e) Development of our 'Do You Pass' retailer training including its use as an alternative to fixed penalty notices and other formal action.
- (f) Continuation of our work in partnership with the police, HMRC and other agencies to tackle the problem of proxy sales and sales from private premises to children, particularly in relation to alcohol and tobacco.
- (g) Continuation with a policy of reviewing premises when appropriate.
- (h) Continuation of our work strategically both corporately and with partner agencies to tackle health inequalities and antisocial behaviour associated with the misuse and illegal supply of age restricted products, in particular alcohol and tobacco.

Decision

The Cabinet approved the proposed enforcement plan for 2013/ 2014

County Durham Partnership Update Report

Summary

The Cabinet considered a report of the Assistant Chief Executive updating Cabinet on issues being addressed by the County Durham Partnership (CDP) including summaries from the Board, the five Thematic Partnerships and all Area Action Partnerships (AAPs). The report also included updates on other key initiatives being carried out in partnership across the County.

The Partnership continues to make a positive contribution, through joint working with all partners, against a range of jointly developed and agreed priorities. Whilst work continues against the longer term priorities as set out in the Sustainable Community Strategy, the Partnership also focuses on emerging issues such as Welfare Reform and its implications for local communities. The County Council is leading on a significant programme of work in order to ensure, as reforms are made, we understand the impact and work with partners to try and have support in place for local people to access.

The County Durham Partnership continues to grow and develop its range of partnership working across all sectors. Following the CDP's commitment to the Armed Forces being ratified at the June 2012 Forum meeting with the signing of the Armed Forces Community Covenant, the first meeting of the County Durham Armed Forces Forum was held on 11 March. It was hosted by the 5th Battalion, The Royal Regiment of Fusiliers at the Gilesgate Armoury in Durham. The Forum seeks to ensure that service and ex-service personnel in County Durham suffer no disadvantage as a result of military service. It involves representatives of the armed forces and organisations for ex-service personnel, as well as partner organisations, elected members and officers of the County Council.

The AAPs are also continuously developing new and varied ways of linking to all parts of their communities. The Council's approach to Participatory Budgeting continues to evolve, as highlighted in the February Update Report presented to Cabinet. Three events have taken place during February and March that have resulted in over £650,000 being allocated to local communities across the Stanley, Three Towns and Derwent Valley AAP areas.

The establishment of AAPs in 2009 followed a period of extensive consultation that led to Cabinet agreeing their Terms of Reference and the recruitment process for the seven AAP board positions for Members of the Public at its meeting on 19 March 2009.

As was reported previously to Cabinet, AAPs have been subject to a number of reviews and examinations. The conclusions of these exercises, while suggesting some enhancements, have found the partnerships are delivering on their Terms of Reference as they have engaged large numbers of the public while completing a significant amount of local projects.

The largest review of AAPs was carried out by Scrutiny in 2011, and has been reported to Cabinet. Many of the recommendations set out in the review have already been implemented. The key outstanding area for action relates to a number of suggested changes to the AAP Terms of Reference.

Work has been on-going to revise the AAP terms of reference following the Scrutiny Review and as part of this work, AAP Coordinators were provided with an opportunity to comment on the terms of reference so any specific issues could be captured and discussed.

Although not a recommendation from the Scrutiny Review, it was felt that an opportunity should be provided for representatives from across the AAPs to come together to review the revised AAP terms of reference as a 'critical friend'. A

dedicated Terms of Reference Sounding Board was therefore created.

Further to the review of the AAP terms of reference and the consideration and subsequent inclusion (where appropriate) of Overview and Scrutiny, officer and Sounding Board feedback, a final draft has now been developed which was included in the report at Appendix 3.

The main changes to the original terms of reference include:

- Clarification that the AAPs are non political in nature
- Additional category of Forum membership included linked to volunteering
- Clarification provided regarding minimum age for Board membership (16 years)
- Clarification provided regarding minimum age for Forum membership (11 years)
- Increased length of co-optee contribution to 12 months
- Additional role and responsibility of Board Members linked to attendance at Task and Finish Group meetings included
- Clarification provided regarding the role of Forum Members at Board meetings
- Additional information included linked to declarations of interest and subsequent dispensation based on advice from DCC Legal Services Team
- Re-wording of 'communities of interest' information based on feedback from DCC Equalities and Diversity Team
- Clarification provided regarding future alterations to the terms of reference which should be in compliance with the DCC Code of Corporate Governance
- Minor re-wording of terms of reference overall to ensure clarity and grammatical consistency

If all of the proposed changes are agreed, all nine recommendations from the Overview and Scrutiny Review of AAPs relating to the AAP terms of reference will have been addressed.

As set out in the attached Terms of Reference, the role of AAP Member of the Public positions are to be reviewed after four years. As a consequence, many of the positions are now up for renewal and publicity is now underway to encourage new members to come forward. Whilst current Board members have undeniably made a significant contribution to the success of AAPs and they are not excluded from applying for a position, they have been informed preference will be given to recruiting new Board members. However, current Board members will be encouraged to continue as members of the AAP Forum and to take part in AAP Task and Finish Groups.

The fact that for many the end of the four year term of office for Member of the Public positions on AAPs coincides with the local elections provides an opportunity to align the selection process for two thirds of the Board's membership. Reflecting the desire to wherever possible highlight non-political nature of AAPs, and given all 126 County Councillors will have an opportunity to take up a Board position during their four year term of office, it is proposed candidates in the County Council election will not be considered in this Member of Public recruitment process. However, given there have been many requests for more parish and town council places on AAP Boards, which we have been unable to accommodate, and given Member of the Public positions are the main means for many hundreds of town and parish councillors to

get involved in AAPs, this restriction will not apply to candidates in town and parish council elections.

In line with the principles to actively encourage new members of the public to play a role in AAPs, and to also try to ensure there is balance of communities represented, it is proposed the recruitment process should follow the successful model used since 2009 of an application and interview. A request from one AAP to select the position by election has been received by the Council. However this is not considered appropriate for a number of reasons, primarily because an election is likely to discourage a large number of people to come forward for consideration. Furthermore, there is a well resourced and comprehensive alternative for elected positions that will generate the members for AAPs, namely the imminent local council elections.

In terms of the interview process, these were originally planned to take place during the weeks of 15th and 22nd April 2013 to ensure the positions are recruited prior to AAP Annual General Meetings. The majority of the AGMs will take place in May/June 2013. Recruitment at this stage will allow time for the new members of the public to receive briefings and training on AAPs prior to the AGMs. With regard to the interview panel, it is proposed that the same broad format is used that proved successful in 2009, with the exception that Elected Members will not be involved because the interviews will take place during the period of the election. This will also help demonstrate that the process meets a key recommendation of the scrutiny review that AAPs need to demonstrate that they are non-political. As a consequence, the proposed panel would be made up of the local AAP co-ordinators, an AAP partner representative and a VCS representative outwith the area. While one AAP has suggested the latter position should be filled by a current member of public on the board, this is not being recommended as the preferred option will provide greater confidence to applicants that the process is independent.

Decision

The Cabinet noted the contents of the report and agreed the recruitment process for the Members of Public positions on AAP Boards as set in this report and the revisions to the AAP Terms of Reference as set out in Appendix 3 of the report.

Decision made in Part B of the meeting – reports containing exempt or confidential information

Freemans Reach, Durham

Summary

The Cabinet considered a joint Report of the Corporate Director, Regeneration and Economic Development and the Corporate Director, Resources which sought approval to agree terms of a lease for a new Office Building and Energy Centre at Freemans Reach, Durham City.

Decision

The Cabinet agreed the recommendations contained in the report.

Colette Longbottom
Head of Legal and Democratic Services
12 April 2013