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## **Appendix 1: Implications**

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### **Legal Implications**

The Council has a statutory duty to adopt and maintain a constitution pursuant to s37 of the Local Government Act 2000 as follows:

- (1) A local authority which are operating executive arrangements or alternative arrangements must prepare and keep up to date a document (referred to in this section as their constitution) which contains —
  - (a) such information as the Secretary of State may direct,
  - (b) a copy of the authority's standing orders for the time being,
  - (c) a copy of the authority's code of conduct for the time being under section 51, and
  - (d) such other information (if any) as the authority consider appropriate.
- (2) A local authority must ensure that copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours.
- (3) A local authority must supply a copy of their constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

### **Finance**

The review of the constitution has no financial implications.

### **Consultation**

As set out in the main body of the report, relevant Council Officers have been consulted regarding any amendments to the Constitution, which are relevant to them.

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

The revision of the Constitution is not considered to have an adverse impact upon the public sector equality duty. The constitution is as accessible as possible and is regularly reviewed to ensure that equality concerns are addressed.

### **Climate Change**

None specific within this report.

### **Human Rights**

None specific within this report.

### **Crime and Disorder**

None specific within this report.

### **Staffing**

None specific within this report.

### **Accommodation**

None specific within this report.

### **Risk**

None specific within this report.

### **Procurement**

None specific within this report.

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## Appendix 2: Extract of Glossary of Terms

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Overview & Scrutiny	<p>A Corporate Overview and Scrutiny Committee providing strategic leadership and five thematic Committees <del>A main committee and five thematic committees established</del> to provide support and advice to the Executive by contributing to the review and development of policy; also to hold the Executive to account by questioning, challenging and monitoring their performance.</p>
Political Proportionality	<p>A legal principle which dictates that Committees of the Council (but not the Executive) must include elected politicians in proportion to the size of their groups on the Council as a whole.</p>
Portfolio Holder	<p>A Cabinet Member with responsibility for ensuring the effective management and delivery of a particular area of the Council's work. (See Article 6).</p>
Procedure Rules	<p>Detailed rules which govern how the Council operates and how decisions are taken. See Part 4 of the Constitution.</p>
Proper Officer	<p>A senior officer of the Council who has specific responsibilities in law.</p>
Protocols	<p>Codes of Practice which set out how, for example, various elements of the Council are expected to interact with each other.</p>
Quorum	<p>The minimum number of people who have to be present before a meeting can take place. (This is set out in the relevant Rules of Procedure in Part 4 of the Constitution)</p>
Scheme of delegation	<p>The document in Part 3 of the Constitution which sets out which officer is responsible for particular functions of the Council.</p>
Substitute	<p>Some committees permit councillors to appoint a substitute (or reserve) councillor to attend a meeting, which they cannot attend themselves (for regulatory committees, the substitute must have completed the required training).</p>
Summons	<p>The term used to describe the Agenda for meetings of the full Council.</p>
Virement	<p>Moving budget funds from one area of expenditure to another within a financial year.</p>

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## Appendix 3: Extract Overview and Scrutiny Arrangements

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### Article 5 – Overview and Scrutiny Arrangements

#### 5.01 Terms of Reference

The Council will appoint the following Committees to discharge the functions conferred by s.21 of the Local Government Act 2000 (as amended) or regulations under s. 32 of the Local Government Act 2000 (as amended) and under the Health and Social Care Act 2001. The terms of reference for the Committees are set within the context of the Council Plan, its Notice of Key Decisions and the overarching partnership framework.

Neither the Chair of the Council nor members of the Executive or Executive Support Members may be members of a Scrutiny Committee.

#### **A. Corporate Overview and Scrutiny Management Board**

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

- (i) Oversee and co-ordinate the work of Overview and Scrutiny and its Committees.
- (ii) Ensure effective liaison across the work of the committees re: cross cutting issues.
- (iii) Be a strategic driver of the Overview and Scrutiny function.
- (iv) Consider as appropriate scrutiny member involvement in regional scrutiny arrangements within the context of any regional strategies.
- (v) Establish appropriate liaison with the Executive in the interests of achieving common aims and continuous improvement for the Council
- (vi) Encourage appropriate community involvement in the Overview and Scrutiny role.
- (vii) Consider the Council Plan and Notice of Key Decisions and to monitor performance against these plans.
- (viii) Deal with petitions in accordance with the Council's Protocol for Petitions.
- (ix) Consider the Council's annual budget.
- (x) Assist the Executive in the development of the Council's annual budget and to review and scrutinise budgetary management.
- (xi) Assist the Executive in ensuring the provision of efficient and effective corporate management and support arrangements.
- (xii) Assist the Executive in the development of asset management.

~~(xiii) Promote the Sustainable Communities Strategy and Council Plan themes~~

~~a. Putting the Customer First~~

~~b. Working with our Communities~~

~~c. Effective use of Resources~~

~~d. Support our People through Change~~

~~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

The Chair and Vice-Chair of this main scrutiny committee, shall be additional members of all other Scrutiny Committees 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.

### **B. 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:**

- i. Young people will have access good quality education, training and employment
- ii. Children and young people will enjoy the best start in life, good health and emotional wellbeing
- iii. Children and young people with special educational needs and disabilities will achieve the best possible outcomes
- iv. All children and young people will have a safe childhood

~~promote the Sustainable Community Strategy and Council Plan themes of:- (i) Helping children and young people realise and maximise their potential (ii) Helping children and young people make healthy choices and have the best start in life (i) Ensuring a Think Family approach is embedded in the Council’s support for families~~

### **C. 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. ~~and shall be formed of~~

~~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 coopting 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:**

- i. Promotion of positive behaviours
- ii. Our villages and villages will be vibrant, well used, clean, attractive and safe
- iii. Communities will come together to accept and support each other.

~~promote the Sustainable Community Strategy and Council Plan themes of:- (i) Reducing Anti-Social Behaviour (ii) Protecting vulnerable people from harm (iii) Reducing re-offending (iv) Alcohol and substance misuse harm reduction (v) Counter terrorism and prevention of violent extremism (vi) Casualty reduction (vii) Embedding the Think Family approach~~

### **D. 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:

- i. A physical environment that will contribute to good health
- ii. Our towns and villages will be vibrant, well used, clean, attractive and safe
- iii. People will have good access to workplaces, services, retail and leisure opportunities.

~~The Environment and Sustainable Communities Overview and Scrutiny Committee shall be the Flood Risk Management Overview and Scrutiny Committee for the purposes of the Local Government Act 2000 as amended by the Flood and Water Management Act 2010 and the Localism Act 2011. Formed of 21 Members of the Council and up to 2 non-voting co-optees, it will promote the Sustainable Community Strategy and Council Plan themes of: – (i) Delivering a cleaner, more attractive and sustainable environment (ii) Maximising the value and benefits of Durham’s natural environment (iii) Reducing carbon emissions and adapting to the impact of climate change (including Flood or coastal erosion risk management functions) (iv) Promoting sustainable design and protect Durham’s heritage~~

### **E. 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:

- i. Delivery of a range of employment sites across the county.
- ii. A strong, competitive economy and County Durham will be a premier place in the North East to do business.
- iii. A broader experience for residents and visitors to the county.
- iv. People will have good access to workplaces, services, retail and leisure opportunities.
- v. Helping all people into rewarding work.
- vi. Standards will be maintained or improved across County Durham’s Housing stock.
- vii. Delivery of new high-quality housing which is accessible and meets the needs of our residents.

~~will promote the Sustainable Community Strategy and Council Plan themes of: – (i) A thriving Durham City (ii) Vibrant and Successful Towns (iii) Sustainable neighbourhoods and rural communities (iv) Competitive and successful people (v) A top location for business~~

### **F. 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:

- i. Better integration of health and social care services
- ii. 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

- iii. Tackling the stigma and discrimination of poor mental health and building resilient communities.
- iv. Promotion of positive behaviours.

And will also:

- v. Lead on the review and scrutiny of NHS Services, Adults social care, Health inequalities and improvement and Public Health Service

~~F. Adults Well-Being and Health Overview and Scrutiny Committee 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 promote the Sustainable Community Strategy and Council Plan themes of:- (i) Reducing health inequalities and early deaths (ii) Improving the quality of life, independence and care and support for people with long term conditions (iii) Improving the mental and physical wellbeing of the population (iv) Supporting people to die in the place of their choice with the care and support they need And will also:- (v) Lead on the review and scrutiny of NHS Services, Adults social care, Health inequalities and improvement and Public Health Services (vi) Consider the Sustainable Community Strategy priorities, Joint Health and Wellbeing Strategy, Clinical Commissioning Groups' "Clear and Credible" plans and the Council Plan actions that relate to this agenda~~

### 5.03 Specific functions

#### (a) Policy development and review.

The Corporate Overview and Scrutiny Management Board and Scrutiny Committees may:

- (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) question Members of the Executive and/or Committees and Chief Officers from the Council about their views on issues and proposals affecting the area; and
- (iv) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
- (v) consider the impact of policies to assess if they have made a difference.

#### (b) Scrutiny

The Corporate Overview and Scrutiny Management Board and Scrutiny Committees may:

- (i) review and scrutinise the decisions made by and performance of the Executive and/or Committees and council Officers in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question Members of the Executive and/or Committees and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the Scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Corporate Overview and Scrutiny Management Board or Scrutiny Committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

(c) **Finance**

The Corporate Overview and Scrutiny Management Board will exercise overall responsibility for the budget allocated to the function.

(d) **Annual report**

The Corporate Overview and Scrutiny Management Board must report annually to full Council on their workings with recommendations for its future work programmes and amended working methods if appropriate. **This annual report will be complemented by additional half-yearly update reports setting out key issues from Overview and Scrutiny activity.**

#### 5.04 **Proceedings of Overview and Scrutiny Bodies**

The Corporate Overview and Scrutiny Management Board and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

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## **Appendix 4: Extract of Joint Arrangements – Article 8**

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### **8.07 Existing Joint Arrangements**

(a) **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.

(b) **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

(c) **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 **at County Hall upon request.**

(d) **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. 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.**

(e) **Health and Wellbeing Board**

This Board comprises:-

- (i) 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 Transformation)
- (ii) Representation from each Clinical Commissioning Group;
- (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) Director of Public Health
- (vii) Director of Integration (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 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, Crime and Victims Commissioner;
- (xv) County Durham and Darlington Fire and Rescue Service;
- (xvi) Housing Service.

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 Assessment ("JSNA"), Joint Health and Wellbeing Strategy ("JHWS") and Pharmaceutical Needs Assessment ("PNA");
- d. Be involved throughout the process as CCGs develop their commissioning plans and ensure they take proper account of the JHWS when developing these plans;
- e. 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. Sign off the Better Care Fund Plan.

(f) **Durham Safeguarding Children Partnership.**

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.

There are three Statutory Safeguarding Partners in Durham, namely ~~County Durham Clinical Commissioning Groups (North Durham CCG, County Durham Clinical Commissioning Group, Easington and Sedgefield CCG)~~ County Durham Clinical Commissioning Group, Durham County Council (Children and Young People's Service) and Durham Constabulary .

The Safeguarding Partners share responsibility for ensuring effective local safeguarding arrangements.

The relevant agencies required to provide virtual representation or representation at subgroups, development session and agency groups are:

- County Durham & Darlington NHS Foundation Trust
- Tees, Esk & Wear Valleys NHS Foundation Trust
- Harrogate & District NHS Foundation Trust
- North Tees and Hartlepool NHS Foundation Trust
- City Hospitals Sunderland NHS Foundation Trust
- North East Ambulance Service
- Durham Voice (Voluntary Sector)
- Further Education Settings
  - o Bishop Auckland College
  - o New College Durham
  - o East Durham College
  - o Derwentside College
- Children and Family Court Advisory and Support Service (Cafcass)
- Education
- Independent Schools
- Schools
- Public Health
- National Probation Service Durham
- Durham Tees Valley Community Rehabilitation Company
- County Durham Youth Offending Service
- Housing Services
- NHS England
- The Local Authority Adult & Health Services
- The Local Authority Early Help, inclusion and vulnerable children Services
- The Local Authority Legal Services
- The Prison Service
- County Durham & Darlington Fire & Rescue Service
- British Transport Police

- Faith Groups

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.

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
- partner organisations and agencies collaborate, share and co-own the vision for how to achieve improved outcomes for vulnerable children
- organisations and agencies challenge appropriately and hold one another to account effectively
- there is early identification and analysis of new safeguarding issues and emerging threats
- learning is promoted and embedded in a way that local services for children and families can become more reflective and implement changes to practice
- information is shared effectively to facilitate more accurate and timely decision making for children and families

In order to work together effectively with local organisations and agencies the Safeguarding Partners will develop processes that:

- facilitate and drive action beyond usual institutional and agency constraints and boundaries
- ensure the effective protection of children is founded on practitioners developing lasting and trusting relationships with children and their families.

**(g) County Durham Safeguarding Adults Inter-agency Partnership**

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:-

- (i) Durham Constabulary
- (ii) Children and Adults Services - Durham County Council
- ~~(iii) County Durham Clinical Commissioning Group, Easington and Sedgefield Clinical Commissioning Group-County Durham Clinical Commissioning Group~~
- (iv) Primary Care - NHS North Durham Clinical Commissioning Group
- (v) Tees, Esk and Wear Valley Foundation Trust
- (vi) County Durham and Darlington NHS Foundation Trust
- (vii) Age UK Durham
- (viii) Her Majesty's Prison Service
- (ix) Care Quality Commission
- (x) National Probation Service
- (xi) NHS England

- (xii) The Fire Service
- (xiii) Higher/Further Education

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 Board, 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.

(h) **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:-

- (i) 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.
- (ii) 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.

(i) **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.

(j) **County Durham Integrated Care Board**

The Board provides system wide leadership and accountability for the delivery of integrated service models within County Durham's Health and Care economy.

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## **Appendix 5 – Extract of Article 9**

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### **9.11 Functions of the Head of Internal Audit**

In addition to the statutory officer posts, the Head of Internal Audit provides objective assurance on the Council's internal control arrangements (both financial and non-financial) and plays a key part in promoting good corporate governance in accordance with proper internal audit practices.

The Head of Internal Audit provides the Council with independent and objective assurance that there are strong arrangements in place for controlling its resources and for delivering its objectives. To do this, key roles include:

- (a) Formulating the internal audit strategy, charter and plan
- (b) Providing an annual audit opinion on all aspects of governance, risk management and internal control to be used as a primary source of evidence for the annual governance statement.
- (c) Championing best practice in governance, objectively assessing the adequacy of governance and management of existing risks, commenting on responses to emerging risks and proposed developments.

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## Appendix 6 – Extract of Article 11

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### 11.06 Common Seal of the Council

- (a) The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal and Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal and Democratic Services or some other person authorised by them.
- (b) Details of every deed and other document to which the Common Seal is to be affixed shall be entered prior to the time of its sealing or as soon as practicable thereafter by the Head of Legal and Democratic Services ~~in a book~~ in a central register maintained for that purpose and the ~~book~~ register shall be signed by the person attesting the affixation of the Common Seal.
- (c) The Common Seal of the Council may be affixed electronically in accordance with the Electronic Communications Act 2000. This is subject to the Head of Legal and Democratic Services being satisfied that proper arrangements are in place for the use and application of an electronic version of the Common Seal of the Council.

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## Appendix 7 – Extract of Delegations of the Corporate Director of Adult and Health Services

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Table 4

### Delegations to the Corporate Director of Adult and Health Services

1. 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:
  - 1.1 The exercise of the Council's powers and duties in relation to the provision of social services so far as those functions relate to:-
    - Adults; or
    - Carers, or:
    - Prisoners and/or people in approved premises within County Durham.
  - 1.2 Functions exercisable on behalf of an NHS body so far as it relates to adults.
  - 1.3 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.
  - 1.4 To formally approve and authorise Mental Health Professionals who are eligible and qualified to be considered as Approved Mental Health Practitioners.
  - 1.5 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).
  - 1.6 Implementing or determining, subject to any right of review or appeal which may apply, all matters concerning the statutory and corporate complaints procedure.
  - 1.7 Setting and varying rates for providers of all forms of social care and housing support in consultation with the Corporate Director of Resources.
  - 1.8 Setting and varying fees and charges for delivery of services.
  - 1.9 Undertaking joint collaborative action as appropriate with the National Health Service and other partner organisations for the planning, commissioning, and cooperating with the police, the probation service and the prison service to assess the risk posed by violent or sexual offenders. ~~and provision of jointly operated services within the County, including the development of Cooperation Agreements and Partnerships Agreements for joint working arrangements.~~
  - 1.10 Protection and promotion of the welfare of vulnerable adults including vulnerable young people moving into adulthood.
  - 1.11 To meet the requirements as set down by regulatory bodies in relation to the operation of services within Adult and Health Services.
  - 1.12 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.
  - 1.13 Under the Care Act 2014 to discharge any functions in relation to the social care duties of the Council including:

- To provide information and advice about care and support services for adults and carers.
- To provide or arrange access to preventative services promoting wellbeing and independence.
- 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.
- Carrying out an assessment and applying national eligibility criteria for anyone who appears to require care and support, including carers who may need support.
- To provide a personal budget to anyone with 'eligible needs'.
- To make enquiries into concerns of abuse and neglect requiring the cooperation of partner agencies and led multi agency safeguarding investigations.

~~1.14 Ensuring that the local authority has a panel of persons in place for its area (known as Channel), as required under the Counter Terrorism and Security Act 2015. The function of this panel is to assess the extent to which identified individuals are vulnerable to being drawn into terrorism and to develop a support plan for that individual.~~

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).

4. ~~The matters set out below are delegated to the Director of Integrated Community Services:~~
  - ~~(a) To take responsibility for the management of Adult Social Care functions in the context of the Integrated Community Services model.~~
  - ~~(b) To protect and promote the welfare of vulnerable adults.~~
  
5. ~~The matters set out below are delegated to the Head of Integrated Strategic Commissioning:~~
  - ~~5.1 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.~~

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## Appendix 8 – Extract of Delegations of the Corporate Director of Resources

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### Table 7 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
- People and Talent Management
- ICT Services
- Coroners
- Land charges
- The Registration of Births, Deaths and Marriages
- Customer Services
- Archive and Records
- Information Management and Governance
- Service review and Improvement
- Transformation Programme

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

- (i) 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.
- (ii) 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

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## **Appendix 9: Extract of the Council Procedure Rules**

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### **9.17 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.

### **9.18 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.**

### **9.19 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 an Area Action Partnership or Member, a written answer will be circulated later to the questioner.

### **9.20 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 to the Head of Legal and Democratic Services 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**

The time allowed for consideration of motions submitted under this Rule shall not, without the consent of the Council, exceed 30 minutes. 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:

- (a) if the speech to be concluded is a speech proposing a motion, the Chair shall allow the motion to be formally seconded (without comment);
- (b) if the speech to be concluded is a speech moving an amendment, the Chair shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise their right of reply; and
- (c) otherwise, the Chair shall allow the mover of the motion to exercise their right of reply.

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.

## **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 by 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.

### **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.

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## **Appendix 10: Extract of Executive Procedure Rules**

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### **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 he is present. In his 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. He 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.

### 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 ~~it~~ **the question** in writing or by electronic mail to the Head of Legal and Democratic Services no later than 14.00 hrs 2 working days before the day of the meeting, and must indicate their reason for asking the question. 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 11: Extract of Overview and Scrutiny Procedure Rules**

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### **17. Call-in**

- (a) The Corporate Overview and Scrutiny Management Board has the power to call in decisions made by the Executive (which term shall also include a Joint Committee) but not yet implemented. The purpose is to consider whether to recommend that a decision be reviewed by the Executive. This is a power which should only be used in exceptional circumstances and cannot be used in respect of day-to-day management and operational decisions.
- (b) When a decision is made by the Executive, an individual member of the Executive with delegated powers or under joint arrangements, notice of the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. All Overview and Scrutiny Members will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (c) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the decision is called in under the provisions set out below.
- (d) Within that period:
  - (i) the Chair or, in their absence the Vice-Chair of the Corporate Overview and Scrutiny Management Board; or
  - (ii) any five members of the Corporate Overview and Scrutiny Management Board or the Scrutiny Committee within whose remit the decision falls

may sign a notice requesting that the decision is called in and submit the notice to the Head of Legal and Democratic Services. The notice should give reasons for the request for call-in, having regard to the principles of decision making set out in Article 12 of this Constitution.

- (e) On receipt of the notice the Head of Legal and Democratic Services will, as soon as possible, seek the views of the Chair or in their absence, the Vice-Chair of the Corporate Overview and Scrutiny Management Board, or in the absence of both, a Chair or Vice-Chair of another Scrutiny Committee.
- (f) The Chair or Vice-Chair to whom the request is referred will consider whether the request is reasonable. They will take account of whether a case has been made out for calling in the decision and whether delaying the implementation of the decision would be likely to cause significant damage to the Council's interests. They will have regard to

the advice of the Monitoring Officer and Chief Finance Officer, **where appropriate, in conjunction with the Scrutiny Officer**, on this point.

- (g) If it is considered that the request for call-in is reasonable, the Head of Legal and Democratic Services will convene a meeting of the Corporate Overview and Scrutiny Management Board within 7 working days, after consulting the Chair of the Board about the date. The Board will then proceed as in sub-paragraph (i) below.
- (h) ~~If the Chair or Vice-Chair to whom the request is referred consider that the request is unreasonable the decision will not be called in. The Head of Legal and Democratic Services will submit a report to the next available meeting of the Corporate Overview and Scrutiny Management Board giving details of the request and Chair's/Vice-Chair's reasons for refusing it.~~ If the Chair or Vice-Chair to whom the request is referred considers that the request is unreasonable the decision will not be called in. The decision of the Chair or Vice Chair will be communicated to the signatories to the Call-in request within 2 working days. The Head of Legal and Democratic Services will submit a report to the next available meeting of the Corporate Overview and Scrutiny Management Board giving details of the request and Chair's/Vice-Chair's reasons for refusing it.
- (i) Where the Corporate Overview and Scrutiny Management Board considers a call-in request, the format of the meeting will be as follows:-
- after the Chair opens the meeting the members who asked for the decision to be called in will be asked to explain their reasons for the request and what they feel should be reviewed;
  - on matters of particular relevance to a particular electoral division, electoral division members who are not signatories to a call-in have the opportunity to make comments on the call-in at the meeting, such speeches not to exceed five minutes each. Electoral division members will take no further part in the discussion or vote. Electoral division members must register their request to speak by contacting the Head of Legal and Democratic Services by 12 noon on the day prior to the relevant hearing;
  - the relevant portfolio holder (or holders if more than one is relevant) will then be invited to make any comments;
  - the relevant Corporate Director or their representative will advise the Board on the background and context of the decision and its importance to achieving Service priorities;
  - Board members will ask questions of members and officers in attendance;
  - the portfolio holder(s) will be invited to make any final comments on the matter.

The Board, after considering the evidence presented to the meeting, will make one of the following decisions:

- to take no further action, in which case the decision will take effect immediately;
  - to refer the decision back to the decision-maker for reconsideration, setting out the nature of the Board's concerns; the decision-maker must then re-consider the matter with a further 10 working days, taking into account the concerns of the Corporate Overview and Scrutiny Management Board, before making a final decisions;
  - to refer the matter to full Council, in which case paragraph (k) below will apply; or
  - to refer the matter to a sub group of the Board for further consideration and report back to the Board within a specified period not exceeding 14 days, in which case the Board will, at its reconvened meeting take one of the decisions set out above; if the Board does not reconvene within 14 days or does reconvene but does not refer the matter back to the decision maker or to the full Council, the decision will take effect on the date of the reconvened Board meeting or the expiry of that further 14 day period, whichever is the earlier.
- (j) If, following a request for call-in, the Corporate Overview and Scrutiny Management Board does not meet in the period set out above, or does meet but does not refer the matter back to the decision maker or to full Council, the decision will take effect on the date of the relevant Board meeting, or the expiry of that further 7 working day period, whichever is the earlier.
- (k) If the matter is referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision maker, together with the Council's views on the decision. That decision maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.
- (l) If the Council does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

## 18. **Exceptions**

In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- (a) that the Corporate Overview and Scrutiny Management Board may only call-in a maximum of 3 decisions per three month period;
- (b) that call-in can be invoked in respect of a decision only once;
- (c) that call in will not apply to individual decisions made by the Audit Committee, the County Planning Committee or Area Planning Committees, the Highways Committee, the Statutory Licensing Committee, the General Licensing and Registration Committee, the Appeals and Complaints Committee, the Chief Officers' Appointments Committee, the Standards Committee or the Human Resources Committee, or any Sub-Committee of those Committees.

## 26. **Consideration of requests to review how a petition has been dealt with under the Petitions process.**

- (a) Whilst there is no automatic right of review as to how a petition has been dealt with within the Council's petitions process, if a petitioner feels that we have not dealt with their petition properly, the petition organiser may request that the Council's Corporate Overview and Scrutiny Management Board review the response to the petition. The request should be accompanied by a short explanation of the reasons why the Council's response is not considered to be adequate.
- (b) The Chair of the Corporate Overview and Scrutiny Management Board, in consultation with the Council's Monitoring Officer and Scrutiny Officer will determine if the request is believed to merit consideration at the Corporate Overview and Scrutiny Management Board or the appropriate Overview and Scrutiny Committee.
- (c) If the request to review the Council's determination of the petition is agreed the Corporate Overview and Scrutiny Management Board or the appropriate Overview and Scrutiny Committee will endeavour to consider the request at the next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting.
- (d) Should the Board / Committee determine that we have not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Executive or referring the matter for consideration by full Council.
- (e) Once a request to review the petition response has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on the council's website.

- (f) Full details of the review mechanism can be found within the Council's petitions process, which can be found on the Council's website.

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## **Appendix 12: Extract of the Contract Procedure Rules**

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### **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:

- The term “Chief Officers” refers to the Council’s Chief Executive and Corporate Directors
- 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.
- 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), in addition to ongoing amendments and updates as issued by the Cabinet Office in the form of Procurement Policy Notes.

### **2. BASIC PRINCIPLES**

2.1 All procurement procedures must:

- Realise value for money by seeking to achieve the optimum combination of whole life costs and quality of outcome,
- Be consistent with the highest standards of integrity,
- Operate in a transparent manner,

- Ensure fairness in allocation of public contracts,
- Support all relevant Council priorities and policies including the Medium Term Financial Plan,
- Comply with the Council's Procurement Strategy, the Social Value Policy and Sustainable Buying Standards, and:
- Comply with all legislative requirements including European Union (EU) Treaty principles, 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 States, where appropriate.
- Be funded through the allocation of an appropriately established budget.

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:

- Have regard to the guidance in the Advice Centre,
- Keep the records required by Rule 19 of these CPRs,
- Take all necessary procurement, legal, financial and professional advice, taking into account the requirements of these CPRs,
- 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:

o 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.

- 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 UK or EU 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:

- Ensure their Service Grouping complies fully with the requirements of these CPRs,
- 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,
- 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.

Copies of the Procurement Acceptance Report and Procurement Initial Request Form are available from the Advice Centre.

#### **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, as contained within the Advice Centre, 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 already, the retrospective application must be authorised by their Corporate Director, 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 must 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.

## 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;

~~In addition, certain other organisations may be regarded as statutory undertakers in very specific circumstances, where works are required, involving disruption to, or re-siting of, existing infrastructure which they own and/or operate, particularly:~~

- ~~vii. Any other telecoms provider for works to specifically licensed mobile telecoms infrastructure which they own;~~
- ~~viii. Any Independent Distribution Network Operator (IDNO) for works to electricity infrastructure they own.~~

~~Where fees are payable directly to a sub-contractor appointed by a statutory undertaker, and where the Council does not have the option of appointing a contractor itself, and where the statutory undertaker's procurement process for selecting the named sub-contractor complies with any obligations under the Utilities Contracts Regulations 2016, then the named sub-contractor shall be treated as a statutory undertaker for the purpose of this Rule.~~

(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.

- (c) Fees payable to Public Health England with respect to the Child Death Notification Service;
- (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) Contracts for the purchase of broadcasting time, including for the placing of radio and television advertising;
- (f) Contracts to provide sponsorship to events, awards schemes, or other promotional activity being organised by a third party;
- (g) 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.
- (h) Contracts for actors or performers to meet the specific requirements of an artistic, cultural, or performing arts event being organised by the council;
- (i) Contracts of employment which make an individual a direct employee of the authority;
- (j) 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.

- (k) 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 a EU member state or third country or before international courts, tribunals or institutions;
- (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 (j) 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;

(n) 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;

~~Fees payable to 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;~~

(o) Fees payable to Durham Constabulary to cover the cost of additional policing presence at public events or for temporary public safety purposes;

(p) Appointment of independent planning inspectors nominated by the Royal Institute of Chartered Surveyors (RICS) under the NPIERS scheme;

(q) ~~Examination~~ Fees payable to a qualification awarding body ~~for the certification of exam results only~~, for a professional or vocational qualification being undertaken by a Council Officer with the support of the Council;

~~**NB:** This exemption covers examination fees only, not the cost of any training or study materials, which remain subject to these CPRs;~~

(r) ~~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;~~

(s) ~~Fees payable for Royal Mail postage, including franking machine credits, and for financial transaction services required by the Council;~~

(t) ~~Agreements regarding the acquisition, disposal, or transfer of land (to which the Financial Procedure Rules apply), or:~~

(u) ~~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.

(v) ~~Where the Council is providing a payment processing facility to a non-profit body undertaking community projects, and where this~~

does not make the Council the accountable body for the contracts or transactions in question. (~~For example, where the Council provides a payment processing facility to Groundwork North East).~~

~~Contracts which have been procured on the Council's behalf by a Central Purchasing Body, where the process followed is in line with the Public Contracts Regulations (2015) (e.g. the North East Procurement Organisation, another Pro5 Organisation, or Crown Commercial Service).~~

(w) 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.

- (x) 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 legalisation relating to 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.

## 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:

- The supply or disposal of goods,
- The hire, rental or lease of goods and equipment,
- 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 ~~All procurements with a likely total value of £50,000 or greater, as well as lower value procurements where appropriate, must be supported by a risk assessment. This risk assessment must be carried out by the Service Area requesting the procurement, at the start of the procurement process.~~

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 ~~The risk assessment process will identify where further specialist advice should be sought.~~

In order to ensure the Council meets its duties under the Public Services (Social Value) Act 2012, ~~the risk assessment will include~~ there must be an appraisal of the opportunities to address social value outcomes through the proposed procurement, which may include ~~or~~ a separate social value opportunity assessment ~~should be carried out.~~

- 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), the 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.
- 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 identify 2 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 ~~Public Contract Regulations OJEU~~ 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 ~~Public Contracts Regulations~~ (2015).

## 22. INTERNAL PROVIDERS

~~22.1 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.~~

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 shall 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.

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## Appendix 13: Code of Conduct for Members

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### CODE OF CONDUCT FOR MEMBERS

#### The County Council of Durham Code of Conduct for Members

1. The County Council of Durham (“the Council”) has adopted the following code which has effect from **XXX and will be reviewed annually. The Code** which sets out the conduct that is expected of elected and co-opted members of the Council when they are acting in that capacity.
2. This means the code applies whenever you:
  - (a) conduct the business of the Council (including the business of your office as an elected councillor or co-opted member); or
  - (b) act, claim to act or give the impression you are acting as a representative of the Council.
3. ‘Co-opted member’ means any person who is a member of any committee or sub-committee of the Council with a right to vote but is not one of its elected members

#### Part 1 – General Conduct

4. Members and co-opted Members of Durham County Council (“the Council”) are expected to undertake their duties as follows:
  - 4.1 Represent the community and work constructively with employees and partner organisations to ensure the area is a safer place to live, work and visit.
  - 4.2 Behave in a manner that is consistent with the following principles to achieve best value for residents and maintain public confidence in the Council:
    - (a) **Selflessness:** act solely in terms of the public interest and not act in such a way as to gain financial or other material benefits for themselves, their family or friends;
    - (b) **Integrity:** not placing themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties;
    - (c) **Objectivity:** make choices on merit, in carrying out public business, including when making public appointments, awarding contracts, or recommending individuals for rewards and benefits;
    - (d) **Accountability:** be accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office;

- (e) **Openness:** be as open as possible about all the decisions and actions they take, and give reasons for decisions and restrict information only when the wider public interest or the law clearly demands;
- (f) **Honesty:** declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.
- (g) **Leadership:** promote and support these principles by leadership and example.

4.3 Act in accordance with the principles in paragraph 4.2 and, in particular:

- (a) Champion the needs of residents - the whole community and all constituents, including those who did not vote for them - and put the public interest first;
- (b) Deal with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially;
- (c) Not allow other pressures, including the financial interests of themselves or others connected to them, to deter them from pursuing the interests of the Council or the good governance of the Council in a proper manner;
- (d) Exercise independent judgement and not compromise their position by placing themselves under obligations to outside individuals or organisations who might seek to influence the way they perform their duties as a Member / Co-opted Member of the Council;
- (e) Listen to the interests of all parties, including relevant advice from statutory and other professional officers, take all relevant information into consideration, remain objective and make decisions on merit;
- (f) Be accountable for decisions and cooperate when scrutinised internally and externally, including by local residents;
- (g) Contribute to making the Authority's decision-making processes as open and transparent as possible to ensure residents understand the reasoning behind those decisions and are informed when holding the Authority to account but restricting access to information when the wider public interest or the law requires it;
- (h) Behave in accordance with all legal obligations, alongside any requirements contained within the Council's policies, protocols and procedures, including on the use of the Council's resources;
- (i) Value colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to

good local government;

- (j) Always treat people with respect, including the organisations and public they engage with and work alongside.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. Members should express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. Members must not, however, subject individuals, groups of people or organisations to personal attack.

Members should treat members of the public politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members. Members equally have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, Members may stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Members, where appropriate action could then be taken under the Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's relevant protocols;

- (k) Provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority;

- (m) Not disclose information given to them in confidence by anyone or information acquired, which they believe, or ought reasonably to be aware, is of a confidential nature, without express authority and/or unless the law requires it.

- (n) Not to bully or harass any person (including specifically any council employee) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of the code of conduct.

Bullying may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone.

Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

Bullying and/or harassment may take many forms, it could include but is not limited to age, disability, gender reassignment, race, religion, belief, sex and/or sexual orientation;

- (o) Not to bring the role of Member or the local authority into disrepute and be aware that the actions and behaviour of a Member are subject to greater scrutiny than that of ordinary members of the public;
  - (p) To hold the local authority and fellow Members to account and constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.
- 4.4 It is expected that Members will at all times comply requests as part of Code of Conduct investigations and any arising outcomes. Members will not submit malicious or trivial complaints.
- 4.5 Where it is alleged that a Member has failed to act in accordance with the Code, a complaint will be presented to the Monitoring Officer for consideration in accordance with the Local Assessment Procedure and where necessary the Local Determination Procedure.

## **Part 2 - Registration of interests**

### **Register of Interests**

- 5.1 Members must:
- (a) register and, where appropriate, disclose those disclosable pecuniary interests that they are obliged to declare under the Localism Act and associated regulations; and
  - (b) register any body of which they are a member (or in a position of general control or management) to which you were appointed or nominated by the Council; and
  - (c) register details of their membership of any organisation or body whose rules or requirements of membership could be regarded as suggesting a degree of loyalty to that organisation or body. This could arise by reason of an organisation having an obligation of secrecy about its rules, its membership or conduct and/or a commitment of allegiance or support to that organisation or body. Such organisations or bodies may or may not be charitable concerns and they may also have a local, regional, national or international aspect; and
  - (d) register details of my membership of any trade union within the meaning of Section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992.
- 5.2 Registration of interests shall be completed by provision of details upon a signed prescribed form which is submitted to the Monitoring Officer at Durham County Council. Members must ensure they keep the register updated and acknowledge that its contents will be published on the Authority's website and will be open to the public to inspect.

## 6. Disclosable Pecuniary Interests Entered on the Register

If Members are present at a meeting of the Authority and:

- (a) they are aware that they have a disclosable pecuniary interest under paragraph 5.1(a) above in any matter to be considered or being considered at the meeting; and
- (b) the interest is entered in the Authority's register

they may not participate in any discussion or further discussion of an item of business or in any vote or further vote taken on that item which affects or relates to the subject matter in which they have such an interest; and they must leave the room where the meeting is held while any discussion and or voting takes place.

## 7. Disclosable Pecuniary Interests NOT Entered on the Register

7.1 If Members are present at a meeting of the Authority and:

- (a) aware that they have a disclosable pecuniary interest under paragraph 5.1(a) above in any matter to be considered or being considered at the meeting; **and**
- (b) the interest is not entered in the Authority's register,

they must disclose the interest to the meeting. Furthermore, they may not participate or further participate in any discussion of the matter at the meeting or participate in any vote or further vote taken on the matter at the meeting and must leave the room where the meeting is held while any discussion and or voting takes place.

7.2 If an interest referred to in 5.1(a) above is not entered on the Authority's register and is not the subject of a pending registration, Members must notify the Authority's Monitoring Officer of the interest within 28 days of the date of the disclosure.

7.3 Members with the power to discharge an Authority function acting alone will have a disclosable pecuniary interest in any matter to be dealt with or being dealt with by them in the course of discharging that function:

- (a) they may not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by them); **and**
- (b) if the interest is not entered on the Council's register and is not the subject of a pending registration, they must notify the Council's Monitoring Officer of the interest within 28 days of becoming aware of the interest.

## 8. Sensitive Interests

- 8.1 This applies to a situation where a Member considers that the disclosure of the details of your interest – including that of your spouse or partner – could lead to you, or a person connected with you, being subject to violence or intimidation.
- 8.2 In such circumstances you should share your concerns with the Council's Monitoring Officer. If the Monitoring Officer agrees with you, then the details of the interest will not be included in the Council's published Register of Interests, but the Register may state that you had registered an interest the details of which had been withheld under Section 32 of the Localism Act 2011.
- 8.3 If the Monitoring Officer has accepted that you have a sensitive interest under Section 32 of the Localism Act 2011, you should declare the existence of the interest at any meeting at which you are present but you need not declare the details of the interest.
- 8.4 If circumstances change and the information excluded from the Register on the grounds of sensitivity is no longer sensitive information, the Member must notify the Monitoring Officer within 28 days.

## 9. **Other Relevant Interests**

- 9.1 Members may have an Other Relevant Interest (which is not a disclosable pecuniary interest) in any matter to be considered or being considered at the meeting) where:
- (a) a decision in relation to that matter might reasonably be regarded as affecting the well-being or financial standing of them or a member of their family or a person with whom they have a close association, or an organisation or body under paragraph 5.1(b), 5.1(c) or 5.1(d) above, to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which they have been elected or otherwise of the authority's administrative area; **and**
  - (b) the interest is one that a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice their judgement of the public interest.
- 9.2 Members with an Other Relevant Interest as described in 9.1. above:
- (a) must make a verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent; **and**
  - (b) must not participate in any discussion or further discussion of an item of business or in any vote or further vote taken on that item which affects or relates to the subject matter in which they have an Other Relevant Interest at any meeting at which they are present and will leave the room where the meeting is held while any discussion or voting takes place.

## 10. **Gifts and Hospitality**

- 10.1 Members must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £50 which they have been offered as a member from any person or body other than the Authority, whether the offer is accepted or declined.
- 10.2 The Monitoring Officer will place any notification received under paragraph 10.1 on a public register of gifts and hospitality.
- 10.3 The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality has been approved by the Authority for this purpose.

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## **Appendix 14: Extract of 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.

#### **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.
- 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 room 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 once the representation has been made to avoid influence on those making the decision.
- 3.4 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.
- 3.5 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.
- 3.6 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.
- 3.7 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.**
- 3.8 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.

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## Appendix 15 - Extract of Section 7 of Code of Our Values, Behaviours and Conduct

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### Declaration forms

The following ~~Declaration~~ forms (CCE1 – CCE4) are to be completed as detailed in this Code. ~~All declaration forms will be held by the Corporate Director of each service grouping and a copy must be forwarded to the HR Payroll and Employee Services (PES) Team for the purpose of logging onto a central register. A copy of the completed declaration form will also be placed on an employee's personal file. All forms will be acknowledged and recorded whether approved or declined.~~

~~The following declaration forms can be downloaded from the intranet. These forms must be completed in full.~~

<b>Form CCE1</b>	Declaration of Relationships with External Contractor or Supplier
<b>Form CCE2</b>	Declaration of Personal Interests
<b>Form CCE3</b>	Request for Approval to Undertake Outside Work
<b>Form CCE4</b>	Declaration of Offers of Hospitality/Gifts

~~Declarations are to be made online via [MyView](#) and will be authorised by your Head of Service. All forms will be recorded on your personal file. Where a Head of Service is required to submit a form, this will go to their line manager for approval.~~

~~If you do not have access to MyView, your Manager can complete the required form(s) on MyView on behalf of an employee.~~

All council HR policies and guidance can be found on the [HR Policies page](#) on the intranet. If you are unable to access the intranet, please speak to your manager.