



**Changes to the Constitution –  
Delegations to the Director of  
Children and Adults Services**

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**Report of the Head of Legal and Democratic Services**

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**Purpose of the Report**

- 1 To propose amendments to Article 16 (The Health and Wellbeing Board) of the Constitution and to the Delegations to the Corporate Director, Children and Adults Services.

**Background**

- 2 Article 16 of the Constitution requires updating to reflect the obligation of the Health and Wellbeing Board to develop and agree a pharmaceutical needs assessment. The proposed changes are shown highlighted in Appendix 2.
- 3 Part 1 of the Care Act 2014 comes into force on 1 April 2015, and places new duties and responsibilities on Councils in relation to care and support for adults. The Children and Families Act 2014 came into force on 1 April 2014, and provisions relating to the local offer commenced in September 2014. The Corporate Director, Children and Adults Services Delegations contained in Part 3, C, Table 3, require updating to ensure that the Council complies with its statutory obligations. The proposed changes are shown highlighted in Appendix 3.
- 4 Constitution Working Group agreed at its meeting on 26 January 2015 to recommend that Council agree the changes proposed to the Constitution.

**Changes to the Constitution**

- 5 To amend Article 16 of the Constitution and the Delegations of the Corporate Director, Children and Adults Services at Part 3, C, Table 3 for the reasons set out in paragraphs 2 and 3.

**Recommendations and reasons**

- 6 To approve the proposed changes to Article 16 of the Constitution and to the Delegations of the Corporate Director, Children and Adults Services at Part 3, C, Table 3.

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## **Appendix 1: Implications**

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**Finance** – None specific within this report

**Staffing** – None specific within this report

**Risk** - None specific within this report

**Equality and Diversity / Public Sector Equality Duty** - None specific within this report

**Accommodation** - None specific within this report

**Crime and Disorder** - None specific within this report

**Human Rights** - None specific within this report

**Consultation** - None specific within this report

**Procurement** - None specific within this report

**Disability Issues** – None specific within this report

**Legal Implications** – None specific within this report

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## **Appendix 2: Article 16 – The Health and Wellbeing Board**

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### **16.01 Health and Wellbeing Board**

The Council establish a Health and Wellbeing Board.

### **16.02 Composition**

**The composition of the Health and Wellbeing Board is as follows:-**

- Representatives nominated by the Leader (being currently:
  - Portfolio Holder for Adult Services;
  - Portfolio Holder for Safer and Healthier Communities;
  - Portfolio Holder for Children and Young People’s Services);
- Representation from each Clinical Commissioning Group;
- A representative from Local Healthwatch;
- Corporate Director Children and Adults Services;
- Director of Public Health

**and nominated representation from each of the following:-**

- Chief Executive of Tees Esk and Wear Valley NHS Foundation Trust;
- Chief Executive of County Durham and Darlington Foundation Trust;
- Chief Executive of City of Sunderland NHS Foundation Trust;
- Chief Executive of North Tees and Hartlepool NHS Foundation Trust;

### **16.03 Role and Function**

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

- 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;
- Encourage those who provide services related to wider determinants of health, such as housing, to work closely with the Health and Wellbeing Board;
- Develop and agree the Joint Strategic Needs Assessment (“JSNA”), and Joint Health and Wellbeing Strategy (“JHWS”); and Pharmaceutical Needs Assessment (“PNA”);

- Be involved throughout the process as CCGs develop their commissioning plans and ensure they take proper account of the JHWS when developing these plans; and
- 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.

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**Appendix 3: Table 3 – Delegations to the Corporate Director, Children and Adults Services**

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**1. Executive Functions**

Subject to the requirement set out below and in compliance with the provisions of Table 1 above, the Corporate Director, Children and Adults 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:-
  - Children, or;
  - Children and young people leaving care; or
  - Adults; or
  - Carers, or;
  - Prisoners and/or people in approved premises within County Durham
- 1.2 Issuing and conducting care proceedings in accordance with the Children Act 1989 and all other relevant legislation and guidance.
- 1.3 Functions exercisable on behalf of an NHS body so far as it relates to adults, children and young people.
- 1.4 The Council's powers and duties in relation to the provision and commissioning of education and training opportunities for young people as determined by the Education Act 1996 and Education and Skills Act 2008 and all other legislation and guidance relating to education and training for young people.
- 1.5 The effective and lawful operation of a secure unit in accordance with the licence requirements set by the Office for Standards in Education, Children's Services and Skills (Ofsted).
- 1.6 The provision of assessment and treatment services for children and young people in accordance with the Mental Health Act 1983.
- 1.7 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.
- 1.8 To formally approve and authorise Mental Health Professionals who are eligible and qualified to be considered as Approved Mental Health Practitioners.

- 1.9 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.
- 1.10 Implementing or determining, subject to any right of review or appeal which may apply, all matters concerning the statutory complaints procedure.
- 1.11 Setting and varying rates for providers of all forms of social care and housing support in consultation with the Corporate Director, Resources.
- 1.12 Setting and varying fees and charges for delivery of services.
- 1.13 Undertaking joint collaborative action as appropriate with the National Health Service and other partner organisations for the planning and provision of jointly operated services within the County, including the development of Cooperation Agreements and Partnerships Agreements for joint working arrangements.
- 1.14 Protection and promotion of the welfare of vulnerable adults including vulnerable young people moving into adulthood.
- 1.15 To meet the requirements as set down by regulatory bodies in relation to the operation of services within Adult's Services and Children's Services.
- 1.16 The provision, operation, commissioning and variation of payments to external providers in respect of services arranged by the Corporate Director, Children and Adult's Services.
- 1.17 The provision, operation and commissioning of services in relation to Adult Learning.
- 1.18 The provision, operation and commissioning of vocational training and allied services for persons over compulsory school age, including the provision of secure boarding accommodation for young people aged over 16 but under 25 who are subject to a learning difficulty assessment and promotion of arrangements to assist persons to obtain employment and employers to obtain employees.
- 1.19 To coordinate the transition of service provision for children who will require services into adulthood.
- ~~1.20 Provision, operation and commissioning of a Health Improvement service.~~

1.20 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.

1.21 Under the Children and Families Act 2014, to discharge any functions in relation to the social care duties of the Council including:

- The publication of a 'Local Offer' which clearly sets out services available for children and young people with special educational needs between the ages of 0-25.

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).

## **2. Specific Delegations**

- 2.1 To coordinate the Council's response to Section 17 of the Crime and Disorder Act 1998 and ensure the crime and disorder implications of the Council's decisions are properly considered.
- 2.2 To provide support and advice to statutory partnerships in community safety/crime and disorder.
- 2.3 To meet the requirements as set down by regulatory bodies in relation to the employment, registration and training of all registrable staff.
- 2.4 To make applications under the Forced Marriage (Civil Protection) Act 2007.
- 2.5 To advise and contribute to the preparation of the Joint Strategic Needs Assessment and Joint Health & Wellbeing Strategy in conjunction with the Director of Public Health and local Clinical Commissioning Groups.
- 2.6 To work in collaboration with partners in the development of the Safe Durham Partnership Strategic Assessment on behalf of the Safe Durham Partnership and to chair the Safe Durham Partnership.
- 2.7 To license the employment of children in accordance with the Children and Young Persons Act 1933.

2.8 To lead and coordinate the local Safeguarding Adults Board and to coordinate the Local Safeguarding Children's Board in accordance with legislation and guidance.

3. The matters set out below are, in addition, **delegated to the Director of Public Health;**

3.1 To take responsibility for the management of the Council's Public Health Services, with professional responsibility and accountability for their effectiveness, availability and value for money.

3.2 To contribute to and influence the work of the NHS Commissioners, ensuring a whole system approach across the public sector and ensuring NHS commissioners receive the public health advice they need.

3.3 To provide leadership, expertise and advice to Senior Officers and Elected Members on a range of issues from outbreaks of disease and emergency preparedness through to improving local people's health concerns around access to health services.

3.4 To provide the public with expert, objective advice on health matters.

3.5 To promote action across the life course, working together with council colleagues such as the Director of Children and Adults Services and with NHS colleagues.

3.6 To work with local Criminal Justice Partners and Police and Crime Commissioners to promote safer communities, including cooperating with the police, the probation service and the prison service to assess the risk posed by violent or sexual offenders.

3.7 Under the NHS Act 2006 and the Health & Social Care Act 2012, to discharge any functions in relation to the corporate public health duties of the Council including responsibility for writing the annual report on the health of the local population. (The Council has a duty to Publish this report under section 73B (5) & (6) of the 2006 Act and Section 31 of the 2012 Act).

3.8 Under Section 73A(1) of the 2006 Act inserted by section 30 of the 2012 Act;

- To undertake duties to take steps to improve public health
- To undertake such other public health protection or health improvement functions that the Secretary of State delegates to Local Authorities either by arrangement or under regulations- these include services mandated by regulations under Section 6C of the 2006 Act Inserted by section 18 of the 2012 Act



- To respond as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications
- To provide Healthy Start Vitamins (under the Healthy Start and Welfare Food Regulations 2005 ) for maternity or child health clinics
- To consult and make decisions on Fluoridation Schemes

3.9 Under section 6C of the NHS Act 2006;

- To ensure appropriate access to sexual health services
- To take responsibility for the National Child Measurement Programme
- To take responsibility for the NHS Health Check Assessment

3.10 To act as either as lead or supporting Director of Public Health chairing or co- chairing the Local Health Resilience Partnership (LHRP) for County Durham, Darlington and Tees Valley.

3.11 To oversee the NHS screening programmes, both cancer and non-cancer, ante-natal and children's screening programmes, ensuring the health of the population is adequately protected and raising issues and concerns appropriately.

3.12 To oversee the NHS immunisation programmes including children 0-5 years, HPV and seasonal flu and any other that the Secretary of State instructs, including catch up programmes, raising issues and concerns appropriately.

3.13 To discharge the Council's responsibilities in relation to communicable and infectious diseases, including healthcare acquired infections.

3.14 Implementing or determining, subject to any rights of review or appeal which may apply, all matters concerning the Statutory Public Health complaints procedure.

3.15 Setting, varying and recovering charges in respect of certain steps taken in the exercise of health improvement duties.

3.16 To advise and contribute to the preparation of the Pharmaceutical Needs Assessment.