

**Cabinet**

**6 April 2016**



**Annual Review of the Constitution**

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**Report of Corporate Management Team**  
**Colette Longbottom, Head of Legal and Democratic Services**  
**Councillor Simon Henig, Leader of the Council**

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**Purpose of the Report**

- 1 To present proposals for the revision of the Council's Constitution.

**Background**

- 2 In accordance with the Local Government Act 2000, the County Council adopted the new constitution for the Unitary Authority from 1 April 2009. Although legislation has been amended by the Localism Act 2011, a constitution is still required. An annual review of the constitution is carried out each year by the Monitoring Officer.
- 3 All amendments to the Constitution which have been approved by full Council since last year's annual review, have been incorporated into the Constitution and an updated version is maintained on the Council's website and the intranet. Amendments made since the last annual review in May 2015 are shown below:-
  - (a) Amendments to the officer scheme of delegations to reflect changes in legislation, working practices, or to correct inaccuracies (Part 3C)
  - (b) Incorporation of new disciplinary procedures for the Head of Paid Service, Chief Finance Officer, and Monitoring Officer following new regulations (Parts 3A, and 4)
  - (c) Amendments to the list of plans and strategies to be adopted or approved by full Council, and to reflect the general duty of the authority in respect of The Counter Terrorism and Security Act 2015 (Part 2)
  - (d) To update the Members Allowances Scheme to reflect changes in practice, legislation and terminology (Part 6)
  - (e) To update the Confidential Reporting Code to align with the new Corporate Complaints Policy (Part 5)

- 4 The Monitoring Officer has now carried out her annual review of the constitution which includes the review of the delegations to the Chief Officers who have been consulted and asked to submit any amendments.

### **Proposed Revisions**

- 5 To amend the Contract Procedure Rules (“CPR”) as set out in Appendix 2 to reflect some minor changes which are largely concerned with particular types of payments, and a change to the formal review of invitations to tender.
- 6 To amend officer delegations for the reasons set out below (Part 3, C, tables 2-6). The proposed amendments are set out in Appendix 3, Schedules 1-5.
- (a) Changes to the delegations of the Assistant Chief Executive to reflect current working practices.
  - (b) Changes to the delegations of the Corporate Director, Children and Adults Services to reflect current working practices, new legislation and to clarify certain matters.
  - (c) Changes to the delegations of the Corporate Director, Regeneration and Economic Development to reflect current working practices.
  - (d) Changes to the delegations of the Corporate Director, Neighbourhood Services to reflect the delayed introduction of parts of the Flood and Water Management Act 2010 and to clarify a change to the name of a service areas. Appendices 2-4 to Table 5 have also been reformatted for clarity.
  - (e) Changes to the delegations of the Corporate Director, Resources to clarify the decision making process regarding Council staff. The Head of Legal and Democratic Services’ delegation has been amended to reflect that consultation would be with the Chairman of Corporate Issues Overview and Scrutiny Committee to make payments or provide other benefits in cases of maladministration and to confirm where the responsibility for the discharge of the function of Local Land Charges rests.
- 7 To amend Article 9 – the Standards Committee as set out in Appendix 4 to reflect the transfer of the overview function of payments or provision of benefits in the case of maladministration to the Corporate Issues Overview and Scrutiny Committee which has oversight of the complaints process.
- 8 To amend the Code of Conduct for Members to clarify the procedure regarding non participation in Council business in relation to disclosable pecuniary interests, as set out in Appendix 5. In addition as information about Members’ Interests is contained in the Code the list which is contained in Part 8- Members’ Interests of the Constitution be removed.

- 9 To amend the wording of the functions of the County Planning Committee, as set out in Appendix 6, so that it is compatible with the delegation to the Corporate Director of Regeneration and Economic Development which are in addition delegated to the Head of Spatial Planning and Assets at Table 4, paragraph 14(d)(iii).
- 10 To amend paragraph 2.4 of the Financial Procedure Rules to reflect changes in legislation by:-
- (a) Removing the reference to The Accounts and Audit Regulations 2003, and subsequent pieces of amending legislation in 2006 and 2009, as these were repealed by 2011 regulations which are already listed in the Procedure Rules.
  - (b) The Code of Practice on Local Authority Accounting 2012/13 be updated to reflect that the Code is updated each year.
- 11 The revisions proposed were approved by the Constitution Working Group on 14 March 2016 for recommendation to Cabinet, and then Council on 25 May 2016.

### **Recommendations and Reasons**

- 12 The Leader and Cabinet are asked to:
- (i) Approve the delegating of executive powers as set out in the officer scheme of delegations.
  - (ii) Recommend that Council agree the proposed revisions to the Constitution, including the delegations to Chief Officers contained, at the meeting of the Council on 25 May 2016.
  - (iii) Recommend that Council authorise the Head of Legal and Democratic Services, following consultation with the Constitution Working Group, to make future changes to the Constitution to reflect decisions of the Council or a Council body or to comply with legal requirements.

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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:** Provision will be made for the constitution to be made available on a variety of formats and languages.

**Accommodation:** None specific within this report.

**Crime and Disorder:** None specific within this report.

**Human Rights:** None specific within this report.

**Consultation:** Consultation with Chief Officers has taken place in relation to the proposed provisions.

**Procurement:** None specific within this report.

**Disability Issues:** None specific within this report.

**Legal Implications:** To comply with recent changes in legislation.

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## **Appendix 2: Amendments to the Contract Procedure Rules**

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### **Contract Procedure Rules**

#### **1. INTRODUCTION**

##### **1.1 What are Contract Procedure Rules?**

1.1.1 The Contract Procedure Rules (CPRs) provide the framework for procurement activity across the Council, setting out how contracts for goods, works, services and utilities should be put in place and managed, and detailing the record keeping and reporting requirements related to procurement activity. They apply to all Service Groupings across the Council.

1.1.2 To avoid the need for regular amendment due to changes in post titles generic terms are included for officers as follows:

- The term “Chief Officers” refers to the Council’s Chief Executive, the Corporate Directors and the Assistant Chief Executive.
- 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”).

#### **2. BASIC PRINCIPLES**

2.1 All procurement procedures must:

- Realise value for money by achieving 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 Corporate Strategy for Commissioning and Procurement, and the Sustainable Commissioning and Procurement Policy, 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.

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 UK and EU 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) 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, Head of Internal Audit, 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 Corporate Procurement Manager 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.

3.1.5 In addition, in cases of serious non-compliance, the Corporate Procurement Manager 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 Public Contracts Regulations (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 Corporate Procurement Manager) 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.

- (b) Fees payable to Ofsted for the inspection of a school, children's home, or other facility;
- (c) Fees payable to the Care Quality Commission under section 85(1) of the Health and Social Care Act 2008;
- (d) Fees payable to the Driver & Vehicle Licensing Agency and/or Drive & Vehicle Standards Agency (formerly VOSA) with regard to Council owned or operated vehicles;
- (e) Fees payable to the Disclosure & Barring Service;
- (f) Fees for TV licenses in Council owned or operated premises;
- (g) Fees payable to Public Health England with respect to the Child Death Notification Service;
- (h) Contracts for the carrying out of statutory public health funerals under the Part 3 of the Public Health (Control of Disease) Act 1984;
- (i) Contracts for the purchase of broadcasting time, including for the placing of radio and television advertising;
- (j) Contracts to provide sponsorship to events, awards schemes, or other promotional activity being organised by a third party;
- (k) Contracts of employment which make an individual a direct employee of the authority;
- (l) 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.

- (m) 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;
- (n) Payments for legal advice given by a lawyer in preparation for, or connected to, any of the proceedings mentioned in (m) above;
- (o) Payments for document certification and authentication services which may only be provided by notaries;

- (p) 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;
- (q) 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.
- (r) Agreements regarding the acquisition, disposal, or transfer of land (to which the Financial Procedure Rules apply), or:
- (s) 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.

- 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).
- Those relating to special educational needs, urgent social care contracts 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.
- Those relating to residential and/or nursing care to a person or persons to whom the Council has a duty or power to provide under the Care Act 2014 and other relevant legislation relating to social care, health and mental health.

## **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.
- 7.2 The risk assessment process will identify where further specialist advice should be sought.
- 7.3 In order to ensure the Council meets its duties under the Public Services (Social Value) Act 2012, the risk assessment must include an appraisal of the opportunities to address social value outcomes through the proposed procurement.
- 7.4 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 may consult potential suppliers, 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 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.
- 8.3 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 the Public Contracts Regulations (2015) apply (i.e. for any contracts likely to exceed the relevant OJEU 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 the Public Contracts Regulations (2015) apply (i.e. for any contracts likely to exceed the relevant OJEU threshold), the Procurement Officer shall consult Corporate Procurement to determine the procedure for conducting the procurement exercise.

## **9.2 Negotiation with a Single Supplier (below OJEU)**

- 9.2.1 In exceptional circumstances, a contract which will not exceed the relevant OJEU threshold may be awarded without a competitive procurement, via direct negotiation with a single supplier, following a similar process to the EU 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.

(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.

**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 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 of £5,000, 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 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, permission to conduct a procurement process by alternative means must be obtained from the Corporate Procurement Manager using the relevant exemption form. This can be found in the Advice Centre. This exemption must be sought before requesting quotations or tenders.

## **11. SHORTLISTING**

11.1 Any shortlisting (i.e. Pre-Qualification Questionnaire (PQQ)) must have regard to the economic, financial and technical standards relevant to the contract and the Evaluation Criteria. Special rules apply to contracts covered by the Public Contracts Regulations (2015). Officers should refer to any further guidance contained in the Advice Centre.

- 11.2 Where the likely value of the procurement is less than the OJEU threshold for *goods and services* (even where the contract is not for goods or services), no shortlisting phase or PQQ may be used.
- 11.3 Where applying financial turnover threshold as a shortlisting criteria, the threshold used must be no more than two times the estimated total value of the proposed contract.
- 11.4 When shortlisting as part of a restricted tender process, a minimum of five bidding organisations should be shortlisted to tender, except in cases where fewer than five compliant PQQ responses are received.

## **12. SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS**

### **12.1 Tenders**

- 12.1.1 Bidding organisations must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirements. Where the Public Contract Regulations (2015) apply, Chapter 2 of the Regulations lays down specific minimum time periods for tenders.
- 12.1.2 As in Rule 10 (above) tenders, except those which have been approved as exempt from electronic tendering, must be submitted electronically via the e-tendering system. Tenders submitted by any other means must not be accepted.

### **12.2 Quotations**

- 12.2.1 As in Rule 10 (above), responses to Requests for Quotation and Quick Quotes must be submitted electronically via the e-tendering system, except where specifically exempt under Rule 10.3. Quotations submitted by any other means must not be accepted.

### **12.3 Electronic Arrangements**

- 12.3.1 Quotations, Further Competition bids and Pre-Qualification Questionnaires which are received electronically via the e-tendering system will be opened by the Procurement Officer. The system will not allow any quotations to be opened until the allocated return date / time has passed.
- 12.3.2 Tenders which are received electronically via the e-tendering system will be opened by a representative from Legal & Democratic Services.

### **12.4 Hard Copy Arrangements**

- 12.4.1 In the event that 'hard copy' tenders are to be accepted (see Rule 10 and Rule 12.1.2 of these CPRs for guidance) these must be submitted, sealed, in the envelope provided with the procurement documents and sent by recorded

delivery, addressed to the Head of Legal & Democratic Services at the Council's registered business address, without any mark revealing the bidding organisation's identity. Hard copy tenders submitted by any other means will not be accepted.

12.4.2 All hard copy tenders will be held by the Head of Legal & Democratic Services until the tender opening date/time has been reached.

12.4.3 All hard copy tenders for the same contract will be opened at the same time by a representative of the Chief Officer who invited the tenders and a representative from Legal & Democratic Services. A register of tenders received will be kept by Legal & Democratic Services and will be initialled on each occasion by the officers who are present at the opening of the tenders.

12.4.4 In the event that hard copy quotations are to be accepted (see Rule 10 and Rule 12.2.1 of these CPRs for guidance) these must be submitted in a plain envelope marked 'Quotation for....' followed by a description of the goods, works or services being procured.

12.4.5 Hard copy quotations will be received directly by Service staff. All quotations must be opened together once the official return date / time has been passed.

### **13. EVALUATION CRITERIA AND STANDARDS**

#### **13.1 Evaluation Criteria**

13.1.1 In any procurement exercise the successful bid should be the one which either:

- Offers the lowest price, or:
- Offers the most economically advantageous balance between quality and price.

In the latter case, the Council will use criteria linked to the subject matter of the contract to determine that an offer is the most economically advantageous, for example: price, quality, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, after-sales service, technical assistance, delivery date, delivery period and period of completion.

13.1.2 Issues that are important to the Council in terms of meeting its corporate objectives can be used to evaluate bids. The criteria can include, for example sustainability considerations, support for the local economy, or the use of subcontractors. The bidding organisations' approaches to continuous improvement and setting targets for service improvement or future savings could also be included. All criteria must relate to the subject matter of the contract, be in line with the Council's corporate objectives and must be objectively quantifiable and non-discriminatory.

13.1.3 These criteria should be assessed through either:



- Essential Criteria – assessed on a pass / fail basis, or:
- Technical Questions – assessed on a scored basis.

13.1.4 The procurement documentation should clearly explain the basis of the decision to bidding organisations, making clear how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

## **13.2 Evaluation Panel**

13.2.1 The Procurement Officer should establish an evaluation panel for the assessment of any Technical Questions at shortlisting and/or Invitation To Tender stages. Each element of the evaluation may have its own panel, provided that all of the responses to each Technical Question are evaluated by the same panel members.

13.2.2 The panel should have at least two members. The Procurement Officer should act as moderator, and may also take part in the evaluation.

Officers should refer to any further guidance in the Advice Centre.

## **13.3 Standards**

13.3.1 Relevant British, EU and International standards which apply to the subject matter of the contract and which are necessary to properly describe the required quality must be included with the contract.

Officers should refer to any further guidance in the Advice Centre.

## **14. CLARIFICATION PROCEDURES**

14.1 The Council can ask bidding organisations for clarification of any details submitted as part of their bid. However, any such clarification must not involve changes to the basic features of the bidding organisation's submission.

14.2 Clarification questions must be raised via the e-tendering system. Bidders must also be asked to respond via the e-tendering system. In cases where an e-tender exemption has been granted under Rule 10.3, the Council should ensure any clarifications are requested in writing, or by e-mail, and bidding organisations asked to respond by the same means.

14.3 When requesting clarification, the Procurement Officer must follow any additional guidance contained in the Advice Centre.

## **15. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING OF ORGANISATIONS**

### **15.1 Evaluation**

15.1.2 The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the procurement documents provided to bidding organisations. Evaluation should be conducted in line with Rules 13.1 and 13.2 above, and with regard any guidance detailed in the Advice Centre.

## **15.2 Award of Contract**

15.2.1 The Council is required to notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as timely a fashion as possible. These written notifications should be transmitted via the e-tendering system unless a specific exemption has been granted under Rule 10.3.

15.2.2 Where procurement has been subject to the Public Contract Regulations (2015), the Alcatel Standstill (a 10 day standstill period before a contract can be awarded to allow an unsuccessful bidding organisation an opportunity to challenge the proposed contract award) shall be included in the procurement timetable, and observed before the contract can be awarded. Full information regarding the Alcatel Standstill is contained within the Advice Centre.

15.2.3 Decisions on award of contract must be made in accordance with the scheme of delegations in Part 3 of the Constitution.

## **15.3 Debriefing**

15.3.1 The written notifications sent to bidders, in accordance with Rule 15.2.1 above, shall include feedback explaining the outcome of the evaluation process, with specific reference to the evaluation criteria, so that bidders can understand why they were, or were not, successful.

15.3.2 The Procurement Officer should follow any additional guidance in the Advice Centre.

## **16. CONTRACT DOCUMENTS**

### **16.1 Format of Contract Documents**

16.1.1 The Council's harmonised procurement documents or conditions issued by a relevant professional body will be used. Where there is any deviation from these, the documents to be used must be reviewed by Legal Services before being issued. These are available from Corporate Procurement or Service Area procurement staff detailed in the Advice Centre.

### **16.2 Contract Signature**

16.2.1 Contract agreement must:

- (a) Where the contract is in the form of a deed, be made under the Council's seal and attested as required by the Constitution, or:

- (b) Where the contract is in the form of an agreement, either:
- (i) be signed by at least two officers of the Council authorised as required by the Constitution, or:
  - (ii) be formalised by the sending of an award letter **and** the subsequent issuing of a purchase order.

The Procurement Officer should also follow any guidance on the use of deeds and agreements to form contracts found in the Advice Centre.

### **16.3 Legal Services Review of Tenders and Contracts**

16.3.1 To ensure the integrity of the procurement process:

- All proposed Invitations to Tender, Requests for Quotation or Quick Quote where they are not in compliance with the County Council's harmonised contract documentation or standard terms and conditions issued by a relevant professional body, will be reviewed by Legal Services.
- Any proposed Invitations to Tender which are ~~subject to the Public Contracts Regulations (2015)~~, or above the relevant OJEU advertising threshold, and which are deemed by Corporate Procurement to be of medium or high risk, must be reviewed by Legal Services.
- Any proposed contract where there is any deviation from the contract terms included in the invitation to tender must be reviewed by Legal Services.

## **17. APPROVED LISTS AND FRAMEWORK AGREEMENTS**

### **17.1 Approved Lists**

17.1.1 Approved lists must not be used where they are prohibited under the Public Contracts Regulations (2015).

17.1.2 Approved lists should only be used in accordance with the guidance contained in the Advice Centre.

### **17.2 Framework Agreements**

17.2.1 Framework Agreements are agreements between the Council and one or more suppliers for the provision of goods, works or services on agreed terms for a specific period, for estimated quantities against which orders may be placed if and when required during the contract period.

17.2.2 The term of a Framework Agreement must not exceed four years.

17.2.3 Where Frameworks are awarded to several organisations, contracts based on Framework Agreements may be awarded in one of two ways, as follows:

- Where the terms of the agreement are sufficiently precise to cover the particular call-off, by applying the terms laid down in the Framework Agreement without re-opening competition, or:
- Where the terms laid down in the Framework Agreement are not precise or complete enough for the particular call-off, by holding a further competition in accordance with the following procedure:
  - inviting the organisations within the Framework Agreement, that are capable of executing the subject of the contract, to submit bids electronically via the Further Competition step on the e-tendering system, with an appropriate time limit for responses, taking into account factors such as the complexity of the subject of the contract,
  - awarding each contract to the bidding organisation who has submitted the best bid on the basis of the relevant Award Criteria set out in the Framework Agreement.

## **18. SUB-CONTRACTORS**

18.1 This Rule applies to all contracts:

- (a) for works, where the value is above the OJEU works threshold, or:
- (b) for services, where the value is above the OJEU services threshold, and where the services are to be provided at sites or premises managed by the Council.

18.2 Where this Rule applies, following the decision to award the contract, but before the contract commences, the Procurement Officer must obtain the following details, from the winning supplier(s):

- The names and business addresses of any sub-contractor(s) the supplier intends to utilise in the delivery of any part of the works or services.
- The name and address of the legal representatives of each such sub-contractor.
- Information to verify each sub-contractor's compliance with the mandatory and discretionary grounds for exclusion listed in Regulation 57 of the Public Contracts Regulations 2015.

18.3 Where it is identified, as a result of the above procedure, that a sub-contractor is in breach of any of the mandatory grounds for exclusion, the supplier must be required to dismiss that sub-contractor from any involvement in the contract. The supplier should appoint a replacement sub-contractor, for which the information in 18.2 above must then be obtained and verified.

- 18.4 Where it is identified that a sub-contractor is in breach of a discretionary ground for exclusion, the Council may, at its discretion, require the sub-contractor to be dismissed and a suitable replacement appointed.

## **19. RECORDS**

- 19.1 The Public Contracts Regulations (2015) require contracting authorities to maintain the following comprehensive records of procurement activities:
- Any proposed contract details including value
  - Selection decision
  - Justification for use of the selected procedure
  - Names of bidding organisations, both successful and unsuccessful
  - Reasons for selection
  - Reasons for abandoning a procedure.
- 19.2 Prior to the contract being formally awarded, and prior to any bidding organisation(s) being notified, the result of any competitive procurement process must be recorded in a Procurement Acceptance Report and submitted to Corporate Procurement. Corporate Procurement will maintain a register of all Procurement Acceptance Reports. Information from Procurement Acceptance Reports will also be used for the tracking of procurement savings, sustainability benefits, and other data.
- 19.3 Following receipt of the correctly completed Procurement Acceptance Report, Corporate Procurement will issue a notification to the Procurement Officer, and other relevant officers. Only once this notification has been issued should the contract be formally awarded.
- 19.4 Following the signature of the contract documents, the Procurement Officer shall ensure a copy of the signed contract particulars is retained on the e-tendering system for future reference and audit purposes.

Additional records management advice is contained in the Advice Centre.

## **20. PREVENTION OF CORRUPTION & DECLARATION OF INTERESTS**

- 20.1 Rules and regulations pertaining to the prevention of corruption are outlined in the Council's Financial Procedure Rules and must be adhered to.
- 20.2 Rules and regulations pertaining to the Declaration of Interests are outlined in the Code of Conduct for Employees within the Constitution and must be adhered to.

## **21. CONTRACT MANAGEMENT / MONITORING**

- 21.1 All contracts must have an appointed Contract Manager for the entirety of the contract. The responsible Head of Service must ensure a Contract Manager is designated prior to award.
- 21.2 Contract management, monitoring, evaluation and review must be conducted in line with any guidance detailed in the Advice Centre.

## **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.
- 22.2 Where a Service Grouping intends to procure goods, services or works which could potentially be delivered in-house by another Service Grouping, the commissioning service shall consult with that in-house provider before proceeding to issue any Invitation to Tender, Request for Quotation, or Quick Quote.
- 22.3 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).
- 22.4 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.

**24. REVIEW AND AMENDMENT OF CPRS**

These Contract Procedure Rules shall be reviewed and updated on an annual basis as part of the annual review of the Constitution.

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## **Appendix 3: Amendments to Officer Scheme of Delegations**

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### **Schedule 1**

**Table 2**

#### **Delegations to the Chief Executive**

1. To act as Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989.
2. To guide and, where appropriate, direct chief officers in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council.
3.
  - (a) To carry out any executive function which is delegated to a particular chief officer in consultation with the relevant Cabinet Portfolio Member
  - (b) To carry out any executive function of a corporate nature in consultation where appropriate with the Leader and Deputy Leader.
4. To grant exemptions on the political restriction of officer posts under the Localism Act 2011.

The following matters are, in addition, delegated to the Assistant Chief Executive:

5. In consultation where appropriate with the relevant Cabinet Portfolio Member, to discharge executive functions in relation to:
  - Communications
  - Corporate Policy, Planning and Improvement
  - Community Engagement/Area Action Partnerships
  - Community Development
  - Community Buildings
  - Emergency Planning and Civil Contingencies
  - Equalities, Diversity and Cohesion
  - Government Migration Programmes
  - Performance Management and Research
  - Partnership Co-ordination and support for the County Durham Partnership



- The county record office and the county archives
- The Voluntary Sector and Local Councils

6. To oversee the management of the Council's Overview and Scrutiny functions.
7. To authorise the expenditure of Neighbourhood and Area budgets approved by the Council in consultation with the relevant Area Action Partnership Board and the appropriate local Member(s).
8. To designate suitably qualified officers as Authorising Officers for the purpose of granting authorisations to exercise the powers made available to the Council by the Regulation of Investigatory Powers Act, 2000.
9. To oversee the Council's responsibility under information governance legislation.

## **Schedule 2**

**Table 3**

### **Delegations to the Corporate Director, Children and Adults Services**

#### **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 Adult's 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 and undertaking Deprivation of Liberty Safeguard authorisations (DoLS).
- 1.10 Implementing or determining, subject to any right of review or appeal which may apply, all matters concerning the statutory and corporate 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 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'.
- 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.
- 1.22 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).

## **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~~ promote 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
- 3.17 The commissioning of services in relation to 0-5 children's public health.

### **Schedule 3**

#### **Table 4**

#### **Delegations to the Corporate Director, Regeneration and Economic Development**

##### **Executive Functions**

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

- Spatial Planning, Regeneration and Economic Policy
- Housing
- Transport Strategy
- Highways and Local Transport Planning
- Traffic Management, in consultation, where required with the Highways Committee, in relation to functions under the Road Traffic Regulation Act 1984 and 1988
- Network Management and Street Works in relation to the New Roads and Street Works Act 1991 and the Traffic Management Act 2004 including enforcement
- Strategic Tourism
- Conservation and Archaeology
- Town Twinning
- Public Rights of Way
- Management of the Council's Land and Property Assets (excluding allotments)
- The transport functions delegated to the Council by the Combined Authority formed by the Durham, Gateshead, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority Order 2014 (the Combined Authority)

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



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

1. To give consent on behalf of the Council to the County Durham Development Company Limited incurring expenditure of money provided by the Council.
2. To review decisions made by the Head of Planning and Assets relating to the list of assets of community value.
3. In consultation with the Head of Legal and Democratic Services to review and update the list of relevant legislation contained within the Appendix to this Table to reflect new or modified statutory provisions.
4. The exercise of the Council's enforcement powers under legislation listed in the Appendix to Table 4 in relation to Common Land and Town and Village Greens.

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

5. To exercise all of the Council's functions relating to public rights of way as set out in Part 1 of Section I of Schedule 1 to the 2000 Regulations except matters reserved to the Highways Committee.
6. To cancel penalty charge notices in respect of parking contraventions under the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.
7. To exercise the Council's powers under the Traffic Management Act 2004 and Transport Act 2000 to:
  - a) issue a penalty charge notice in connection with parking offences and part of the civil parking regime
  - b) allow exceptions to normal civil parking enforcement practices where appropriate
8. To deal with the provision and maintenance of bus stop infrastructure in highways and, if necessary, land abutting highways.
9. To undertake non-statutory consultations before implementing proposals to locate bus stop infrastructure, subject to consultation with Highways Committee before exercising this delegated power if there are unresolved representations to such proposals.
10. Provision and operation of closed circuit television in accordance with the Criminal Justice and Public Order Act 1994 and the Private Security Industry Act 2001.

11. To discharge the regulatory and enforcement functions of the Council under the legislation set out in the Appendix to this Table.
12. To enter into Section 38 of the Highways Act 1980 agreements to adopt and thereafter maintain highways at the public expense.
13. To enter into Section 278 of the Highways Act 1980 agreements to modify existing highways.

**The following matters are, in addition, delegated to the Head of Spatial Policy, Planning and Assets:**

14. Determine all forms of planning and other applications and all notifications submitted under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 or under any related principal or secondary legislation, except the following –
  - (a) those applications for planning permission, applications for approval of reserved matters or other notifications which have a relevant timescale of more than 28 days that any Member of the Council requests be determined by the Planning Committee (such must be made in writing to the Head of Spatial Policy, Planning and Assets specifying material planning grounds on which the request is made and received by the Head of Spatial Policy, Planning and Assets within 21 days of publication on the weekly list or the publication of the site notice or press notice and service of neighbour consultation letters, whichever is the later);
  - (b) those applications for planning permission, applications for approval of reserved matters or other notifications which have a relevant timescale of more than 28 days where a Member of the Council or an officer of the Planning Development Service or their spouse/partner or children has an interest in the property or land which is the subject of the application or notification and where there is an objection to the application or notification;
  - (c) those applications for planning permission, applications for approval of reserved matters or other notifications which have a relevant timescale of more than 28 days where despite a Town or Parish Council having expressed objection or support on material planning grounds the officer is minded to recommend the application or notification contrary to the Town or Parish Council wishes and the Town or Parish Council have made a specific request in writing for the application or notification to go before a planning committee which is received by the Head of Planning and Assets within 21 days of publication on the weekly list;
  - (d) Major developments (but not including Reserved Matters, applications for extension of time or applications for a material minor amendment) comprising-

- (i) ten or more dwellings (detailed and outline applications) except where the application is for a substitution of house types on a scheme already benefiting from an extant planning permission;
  - (ii) industrial floor space of 5000 m<sup>2</sup> or more comprised in Use Class B1 (Business) and/or Use Class B2 (General Industrial) and/or Use Class B8 (Storage or Distribution); or
  - (iii) all other developments not falling within use classes C3, C4, B1, B2 or B8 where the floor space is 1000 m<sup>2</sup> (gross) or more or the site area is 1 hectare or more except applications where the use or building would be for agriculture or personal equestrian use;
- (e) those applications for planning permission or notifications which have a relevant timescale of more than 28 days which in the opinion of the Head of Planning and Assets ought to be determined by Committee due to their controversial nature;
  - (f) those applications for planning permission or notifications which have a relevant timescale of more than 28 days recommended for refusal which involve the creation of 10 or more full time or equivalent jobs;
  - (g) those applications for planning permission or notifications which have a relevant timescale of more than 28 days where there is a significant departure from Development Plan policy and which would be required to be the subject of a notification to the Secretary of State;
15. To decline to determine planning applications under Sections 70A, 70B and 70C of the Town and Country Planning Act.
  16. To take all necessary steps in connection with the defence of appeals against any refusal or failure to determine any of the applications and notifications mentioned at paragraph 15 above.
  17. To provide pre-application advice on proposed or anticipated development schemes in accordance with the Council's Pre-Application Advice Protocol.
  18. To respond to any pre-application or other consultation on nationally significant infrastructure projects submitted or to be submitted to the Major Infrastructure Planning Unit under the Planning Act 2008.
  19. To carry out reviews of planning permissions as required by the Habitats Directive and the Conservation of Habitats and Species Regulations 2010.
  - ~~19.~~ 20. To authorise the making and confirmation of a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995.

- ~~20.~~21. To authorise the drafting, negotiation and completion of Section 106 Planning Obligations, S106A Variations to Planning Obligations and Release of Section 52 Planning Agreements and to authorise the giving of any approval or consent required pursuant to a S106 Planning Obligation, S106A Deed of Variation or Section 52 Planning Agreement.
- ~~21.~~22. Authorise, sign and serve all enforcement and other notices under the Town and Country Planning Act 1990, The Planning (Listed Buildings and Conservation Areas) Act 1990 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 on behalf of the Council.
- ~~22.~~23. Authorise the taking of prosecution action applications for injunctions and to instruct the Head of Legal and Democratic Services, as necessary, to instigate legal proceedings in respect of the enforcement of legislation referred to in the Appendix to this Table.
- ~~23.~~24. To administer simple and conditional cautions to persons guilty of criminal offences under the legislation referred to in the Appendix to this Table and in accordance with PACE and Home Office guidance.
- ~~24.~~25. Authorise the taking of default action under Sections 178 & 219 of the Town and Country Planning Act 1990.
- ~~25.~~26. Authorise the making of Orders under Section 257 of the Town and Country Planning Act 1990.
- ~~26.~~27. To apply to the Secretary of State for an order under Section 249 of the Town and Country Planning Act 1990.
- ~~27.~~28. To exercise powers of revocation/modification of planning permissions (Section 97), discontinuance of a use/alteration or removal of a building (Section 102 & Schedule 9) and the making of Prohibition or Suspension Orders (Schedule 9) of the Town and Country Planning Act 1990.
- ~~28.~~29. Authorise the making, confirmation, revocation and variations of Tree Preservations Orders.
- ~~29.~~30. In connection with any proposed development under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, determine whether an Environmental Impact Assessment is required (screening) and the information required (scoping).
- ~~30.~~31. Authorise individual named officers to exercise powers of entry contained in the following:

The Hedgerow Regulations 1997  
Town and Country Planning Act 1990  
Planning (Listed Buildings and Conservation Areas) Act 1990  
Planning (Hazardous Substances) Act 1990

Building Act 1984  
Fire Safety and Safety of Places of Sport Act 1987  
Safety of Sport Grounds Act 1975  
Local Government (Miscellaneous Provisions) Act 1982  
Party Wall etc Act 1996  
Planning Act 2008

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

- ~~31.~~32. To administer and determine complaints about high hedges under the Anti-Social Behaviour Act 2003.
- ~~32.~~33. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- ~~33.~~34. Act under and in respect of –
- (a) Sections 16, 18 to 21, 23 to 25, 32, 35 and 36, Building Act 1984;
  - (b) Sections 77 to 78 and 80 to 83, Building Act 1984;
  - (c) Building Regulation 14 with regard to giving of notices and requiring the laying open, cutting into, and pulling down the building, works or fittings  
Issue 1 65 12 May 2010
  - (d) Sections 29-32, Local Government (Miscellaneous Provisions) Act 1982;
  - (e) Party Wall Act etc 1996;
- ~~34.~~35. Accept and reject notices, certificates and certificates of compliance from Approved Inspectors and Public Bodies under Sections 47 to 54, Building Act 1984 and to issue safety certificates in accordance with the Safety of Sports Grounds Act 1975 and Part III, Fire Safety and Safety of Places of Sport Act 1987;
- ~~35.~~36. To authorise, sign and serve all notices and deal with all applications, licences, revocations and suspensions and take all necessary enforcement action on behalf of the Council in respect of its responsibilities for matters of building control.
- ~~36.~~37. In consultation with the Local Members and the relevant Cabinet Portfolio Member, to sell or lease any property which is surplus to the requirements of the Service for which it is held and where after enquiries no other Service has expressed an interest in the property.
- ~~37.~~38. To approve the principle of acquiring property at a price not exceeding £60,000.

- ~~38~~.39. To settle the terms of the purchase or lease of property the acquisition of which has been approved in principle by the Council and to settle any dilapidation claim at the end of any lease acquired.
- ~~39~~.40. To negotiate the acquisition of easements, rights of way, wayleaves, licences, covenants and consents for the benefit of Council land and property.
- ~~40~~.41. To accept the dedication or transfer of land to be maintained as public open space or to enable the adoption of a sustainable drainage system subject to satisfactory terms being negotiated for contribution to the cost of maintenance.
- ~~41~~.42. To deal with applications for easements, rights of way, wayleaves, licences, covenants and consents affecting council land and property not materially affecting the use to which it is or might be put.
- ~~42~~.43. To approve the granting of an option over Council land or the acquiring by the Council of an option over land and to approve the extension of any option granted or acquired.
- ~~43~~.44. To authorise the use of Council land as a permissive right of way and/or to dedicate Council land as a public right of way.
- ~~44~~.45. In consultation with the appropriate Service representative to grant leases on any council owned property, whether or not it has been declared surplus.
- ~~45~~.46. In respect of leases, to carry out rent reviews and to grant renewals, variations, assignments, sub-lettings, surrenders and other landlords' consents.
- ~~46~~.47. To agree the appropriation of land from one use to another where this is necessary to facilitate schemes to be carried out by or on behalf of the Council.
- ~~47~~.48. To settle compensation claims not exceeding £50,000 either under the provisions of Part 1 of the Land Compensation Act 1973 or as a result of the Council taking entry to property for borehole samples, surveys or other site investigations.
- ~~48~~.49. To negotiate and agree the rating assessment and valuation of all council owned property, in consultation with the Head of Corporate Finance.
- ~~49~~.50. To require information as to interests in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- ~~50~~.51. To negotiate abortive costs in the event of a transaction not proceeding in circumstances where the Council has a liability to pay costs.

- 51.52. Where required as part of the appropriate management of the Council's assets, to authorise the demolition of Council buildings.
- 52.53. To approve disposals and appropriations of Open Space and Public Walks and Pleasure Grounds as set out in Section 10 of the Open Spaces Act 1906 and Section 164 of the Public Health Act 1875 subject to seeking guidance from the Highways Committee in the event of unresolved objections being received.
- 53.54. To authorise and maintain a list of assets of community value and to make adjudications and decisions in relation thereto, as defined in Part 5, Chapter 3 of the Localism Act 2011.
- 54.55. All duties arising out of the establishment of the Business Improvement Districts.
- 55.56. To designate any areas to be of special architectural or historical interest as conservation areas; to review and amend the boundaries and conclude Character appraisals and to formulate and prepare proposals for the preservation and enhancement of those areas.

**The following matters are, in addition, delegated to the Head of Economic Development and Housing**

- 56.57. To exercise the Council's function in relation to housing including:-
- (a) the determination of any applications for grant assistance pursuant to the legislation listed in the Appendix at Table 4;
  - (b) the exercise of the Council's enforcement powers under the legislation listed in the Appendix to Table 4 in relation to private sector housing;
  - (c) to authorise the implementation of any action necessary to recover monies due to the Council as a result of its exercise of the powers contained in legislation listed in the Appendix at Table 4;
  - (d) to investigate and determine all applications made to the Council under its powers and duties to deal with homelessness in the legislation described in the Appendix at Table 4;
  - (e) to authorise any expenditure required in the exercise of the Council's functions to assist the homeless.

- (f) To respond on the Council's behalf to requests for consent to alterations to the Articles of Association of Large Scale Voluntary Transfer companies and Arms Length Management Organisations.

57.58. To carry out the Council's functions in relation to permanent gypsy, roma and traveller sites under the legislation listed in the Appendix at Table 4, including allocation of sites, site management, rent recovery and tenant support.



## **Appendix to Table 4**

Acquisition of Land Act 1981  
Anti-Social Behaviour Act 2003  
Anti-Social Behaviour, Crime and Policing Act 2014  
Building Act 1984  
Chronically Sick and Disabled Persons Act 1970  
Commons Act 1876  
Commons Act 2006  
Commons Registration Act 1965  
Countryside and Rights of Way Act 2000  
Criminal Justice and Public Order Act 1994  
Durham City Council Act 1985  
Electricity at Work Act 1989  
Environmental Protection Act 1990  
Environment Act 1995  
Fire Safety and Places of Sport Act 1987  
Forgery and Counterfeiting Act 1981  
Fraud Act 2006  
Growth and Infrastructure Act 2013  
The Hedgerows Regulations 1997  
Highways Act 1980  
Home Energy Conservation Act 1997  
Homelessness Act 2002  
Housing Act 1985  
Housing Act 1988  
Housing Act 1996  
Housing Act 2004  
Housing and Regeneration Act 2008  
Housing Grants Construction and Regeneration Act 1996  
Inclosure Act 1857  
Land Compensation Act 1973  
Landlord and Tenant Act 1985  
Leasehold Reform Housing and Urban Development Act 1993  
Local Democracy, Economic Development and Construction Act 2009  
Local Government, Planning and Land Act 1980  
Local Government (Miscellaneous Provisions ) Act 1982  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government Act 1972  
Local Government Act 2003  
Local Government and Housing Act 1989  
Localism Act 2011  
Local Transport Act 2008  
Mobile Homes Act 2013  
National Parks and Access to the Countryside Act 1949  
Natural Environment and Rural Communities Act 2006  
New Roads and Street Works Act 1991  
Open Spaces Act 1906  
Party Wall etc. Act 1996  
Planning and Compulsory Purchase Act 2004

Planning (Hazardous Substances) Act 1990  
Planning (Listed Buildings and Conservation Areas) Act 1990  
Planning Act 2008  
Private Security Industry Act 2001  
Proceeds of Crime Act 2002  
Protection from Eviction Act 1977  
Railway Clauses Consolidation Act 1985  
Regulatory Reform (Housing Assistance) (England and Wales) Order 2002  
Road Traffic Regulation Act 1984  
Safety of Sports Grounds Act 1975  
The Conservation of Habitats and Species Regulations 2010  
Town and Country Planning (Use Classes Order) 1987  
Town and Country Planning Act 1990  
Town and Country Planning (Control of Advertisements) (England) Regulations 2007  
Town and Country Planning (Environmental Impact Assessment) Regulations 2011  
Town and Country Planning (General Permitted Development) Order 1995  
Town and Country Planning (Development Management Procedure) (England) Order 2010  
Town and Country Planning (Local Planning) (England) Regulations 2012  
Town Police Clauses Act 1847  
Traffic Management Act 1984  
Traffic Management Act 2004  
Transport Act 1985  
Transport Act 2000  
Warm Homes and Energy Conservation Act 2003  
Wildlife and Countryside Act 1981

## **Schedule 4**

**Table 5**

### **Delegations to the Corporate Director, Neighbourhood Services**

#### **Executive Functions**

##### **1. Executive Functions**

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

- Buildings and Facilities Management
- Building Design Services
- Business Services
- Street Cleansing and Grounds Maintenance
- Construction Programme and Project Management Unit
- Consumer Protection
- County Fleet
- Culture and Sport Localities
- Culture and Sport Improvement and Development
- Culture and Sport Growing and Learning
- Culture and Sport Wellbeing
- Culture and Sport Place and Experience
- Customer Services
- Environment Protection
- Health Protection
- Management and Maintenance of Highways
- Neighbourhood Protection
- Neighbourhood Services Learning and Development
- Parks and Grounds
- Policy, Performance and Communications
- Projects and Programme Management
- Waste Collections and Waste Transfer Sites
- Waste Management
- School Capital Projects

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**

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

2. To authorise suitably qualified and competent staff within Culture and Sport and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under the relevant legislation referred to in Appendix 5 to this Table.
3. In consultation with the Head of Legal and Democratic Services to review and update the list of legislation contained within Appendix 5 to this Table to reflect new or modified statutory provisions.
4. To exercise functions as Library Authority under relevant legislation referred to in Appendix 5 to this table
5. In consultation with the Head of Legal and Democratic Services to take enforcement action under bye-laws relating to arts, libraries and museums.
6. To approve agency agreements where financial transactions are not required.

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

7. To exercise the Council's functions relating to provisions of the Highways Act 1980 as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) 2000 Regulations
8. To authorise suitably qualified and competent staff within Direct Services and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under the relevant legislation referred to in Appendix 5 to this Table
9. In consultation with the Head of Legal and Democratic Services to review and update the list of legislation contained within Appendix 5 to this Table to reflect new or modified statutory provisions.
10. To authorise suitably qualified and competent staff within Direct Services to discharge the regulatory and enforcement functions of the Council under the relevant legislation set out in Appendix 5 to this Table
11. To exercise, in consultation with the Head of the Legal and Democratic Services the Council's enforcement functions including the institution of legal proceedings under relevant legislation set out in Appendix 5 to this Table and all associated secondary legislation as amended from time to time

12. To issue simple and conditional cautions to persons guilty of criminal offences under the legislation as referred to in Appendix 5 to this Table and in accordance with PACE and the Home Office Guidance
13. To exercise functions as Waste Collection Authority under relevant legislation referred to in Appendix 5 to this table.
14. In consultation with the Head of Legal and Democratic Services, to make, confirm, amend, vary, modify, consolidate and revoke orders under the legislation referred to in Appendix 5 to this Table.
15. To manage the Council's allotments which includes responsibility for the grant, renewal and termination of allotment tenancies.

**The following matters are, in addition delegated to the Head of Environment, Health and Consumer Protection**

16. To exercise all of the Council's functions including licensing, registration, making of orders, issue of notices and enforcement in respect of the following matters referred to in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) 2000 Regulations:
  - a. Performances of hypnotism;
  - b. Premises for acupuncture, tattooing, ear piercing and electrolysis;
  - c. Pleasure boats and pleasure vessels;
  - d. Night cafes and take-away food shops;
  - e. Sale of non-medicinal poisons;
  - f. Premises for the preparation of food including registration;
  - g. Scrap yards;
  - h. Pet shops and the breeding and boarding of dogs or other animals;
  - i. Animal trainers;
  - j. Knackers' yards;
  - k. Charitable collections;
  - l. Operation of loudspeakers;
  - m. Street works licences;
  - n. Movement and sale of cattle and pigs;
  - o. Storage of celluloid;
  - p. Meat, fish, dairy and egg product establishments and butchers' shops;
  - q. Motor salvage operations;
  - r. Health and safety at work;
  - s. Smoke-free premises;
  - t. Caravan and camping sites and moveable dwellings

17. To exercise the Council's functions in relation to:
  - a. The control of pollution and the management of air quality;
  - b. Statutory nuisances, as referred to in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) 2000 Regulations;
  - c. Contaminated land;
  - d. Port health;
18. To exercise, in consultation with the Head of the Legal and Democratic Services the Council's licensing, approval, registration and enforcement functions, including the institution of legal proceedings under legislation set out in Appendix 1 to this Table and all associated secondary legislation as amended from time to time.
19. In consultation with the Head of Legal and Democratic Services to review and update the list of relevant legislation contained within Appendix 1 to this Table to reflect new or modified statutory provisions.
20. Subject to Appendices 2, 3 and 4 to this Table to authorise, suspend, vary, transfer, extend or revoke permits, licences, certificates, registrations and approvals issued under the legislation set out in the Appendix 1 to this Table including all relevant statutory provisions.
21. To issue simple and conditional cautions to persons guilty of criminal offences under the legislation referred to in Appendix 1 and in accordance with PACE and the Home Office Guidance.
22. To authorise suitably qualified and competent staff within the Environment, Health and Consumer Protection Division and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under the legislation referred to in Appendix 1.
23. To authorise another local authority to institute legal proceedings in respect of a contravention of the legislation set out in Appendix 1 to this Table where related contraventions are being investigated by that authority.
24. To grant authorisations in relation to illegal money lending and unfair trading practices.
25. Power to agree transfers and assignments under health and safety legislation to change Enforcing Authority responsibilities.
26. Power to appoint Proper Officers and alternate Proper Officers for the Authority for matters relating to Public Health, Port Health and the Control of Infectious Disease.

27. Power to appoint Public Analyst, Agricultural Analyst and Food Examiner for the Council.
28. To authorise Officers to institute and or defend on behalf of the Council any legal proceedings which the Council by itself, or by a duly empowered Committee, may decide to take. In this respect, nominated staff are hereby authorised to appear in Court in person, or to be represented by a duly appointed officer of the Council in accordance with Section 223 of the Local government Act 1972 or to be represented by a duly instructed solicitor.
29. To determine those applications and matters in relation to Licensing and Gambling as are referred to in Appendices 2, 3 and 4 to this Table.
30. To agree terms of conditions and licences in accordance with published best practice and/or guidance.

**The following matters are, in addition delegated to the Head of Projects and Business Services**

31. To authorise suitably qualified and competent staff within Projects and Business Services and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under the relevant legislation referred to in Appendix 5 to this Table
32. In consultation with the Head of Legal and Democratic Services to review and update the list of legislation contained within Appendix 5 to this Table to reflect new or modified statutory provisions.
33. To exercise functions as Waste Disposal Authority under relevant legislation referred to in Appendix 5 to this table

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

34. To exercise all the Council's functions relating to provisions of the Highways Act 1980 as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) 2000 Regulations.
35. To authorise suitably qualified and competent staff within Technical Services and other persons acting on behalf of the Council, for the purposes of discharging duties and powers under the relevant legislation referred to in Appendix 5 to this Table.
36. In consultation with the Head of Legal and Democratic Services to review and update the list of legislation contained within Appendix 5 to this Table to reflect new or modified statutory provisions.

37. To authorise suitably qualified staff within Technical Services to discharge the regulatory and enforcement functions of the Council under the relevant legislation set out in Appendix 5 to this Table.
38. To exercise, in consultation with the Head of the Legal and Democratic Services the Council's enforcement functions, including the institution of legal proceedings, under legislation set out in Appendix 5 to this Table and all associated secondary legislation as amended from time to time
39. In consultation with the Head of Legal and Democratic Services, to make, confirm, amend, vary, modify, consolidate and revoke orders under the legislation referred to in Appendix 5 to this Table.
40. To exercise the functions of land drainage and as a Lead Local Flood Authority under the relevant legislation referred to in Appendix 5 to this table.
41. To exercise functions as Highway Authority under relevant legislation referred to in Appendix 5 to this table, including the following:
  - (i) Power to enforce all the provisions of and initiate legal proceedings under all the sections of the Highways Act 1980;
  - (ii) To exercise the Council's powers under the Durham City Council Act 1985 in relation to the temporary closure of footpaths;
  - (iii) To grant street works license under section 50 of the New Roads and Street Works Act 1991;
  - (iv) To issue fixed penalty notices to statutory undertakers who fail to serve correct notices under the New Roads and Street Works Act 1991 to carry out works on the road network.



## Appendix 1 to Table 5

Administration of Justice Act 1970  
Agriculture Act 1970  
Agriculture (Miscellaneous Provisions) Act 1968  
Agricultural Produce (Grading and Marking) Acts 1928 and 1931  
Animal Act 1971  
Animal Boarding Establishments Act 1963  
Animal By Products (Enforcement) (England) Regulations 2013  
Animal Feed (England) Regulations 2010  
Animal Health Act 1981  
Animal Welfare Act 2006  
Anti-Social Behaviour Act 2003  
Anti-Social Behaviour, Crime and Policing Act 2014  
Breeding of Dogs Act 1973  
Breeding of Dogs Act 1991  
Breeding and Sale of Dogs (Welfare) Act 1999  
Building Act 1984  
Caravan Sites and Control of Development Act 1960  
Caravan Sites Act 1968  
Cattle Identification Regulations 1998 (Amended)  
Children and Families Act 2014  
Children and Young Persons Act 1933  
Children and Young Persons (Protection from Tobacco) Act 1991  
Clean Air Act 1993  
Clean Neighbourhoods and Environment Act 2005  
Companies Act 1985 and 2006  
Consumer Rights Act 2015  
Consumer Contracts (information, Cancellation and Additional Charges) Regulations 2013  
Consumer Credit Act 1974  
Consumer Protection (Distance Selling) Regulations 2000  
Consumer Protection Act 1987  
Consumer Protection from Unfair Trading Regulations 2008  
Control of Pollution (Amendment) Act 1989  
Control of Pollution Act 1974  
Copyright, Design and Patents Act 1988  
Crime and Disorder Act 1998  
Criminal Justice Act 1988  
Criminal Justice and Police Act 2001  
Criminal Justice and Public Order Act 1994  
Courts and Legal Services Act 1990  
Dangerous Substances and Explosive Atmospheres Regulations 2002  
Dangerous Wild Animals Act 1976  
Deregulation Act 2015  
Development of Tourism Act 1969  
Education Reform Act 1988  
Employment of Women, Young Persons and Children Act 1920  
Energy Act 1976  
Energy Act 2013

Enterprise Act 2002  
Environmental Damage (Prevention and Remediation) (Regulations) 2009  
Environmental Protection Act 1990  
Environment Act 1995  
Estate Agents Act 1979  
European Communities Act 1972  
Explosives Act  
Explosives (Age of Purchase etc) Act 1976  
Fair Trading Act 1973  
Farm and Garden Chemicals Act 1967  
Feed (Hygiene and Enforcement) (England) Regulations 2005  
Food Act 1984  
Food Safety and Hygiene (England) Regulations 2013  
Food and Environment Protection Act 1985  
Food Safety Act 1990  
Fraud Act 2006  
Gambling Act 2005  
Hallmarking Act 1973  
Health Act 2006  
Health Act 2009  
Health and Safety at Work etc. Act 1974  
Highways Act 1980  
House to House Collections Act 1939  
Housing Act 2004  
Housing Grants, Construction and Regeneration Act 1996  
Hypnotism Act 1952  
International Health Regulations 2005  
Intoxicating Substances (Supply) Act 1985  
Land Drainage Act 1976  
Land Drainage Act 1991  
Land Drainage Act 1994  
Legislative and Regulatory Reform Act 2006  
Licensing Act 2003  
Local Authorities Goods and Services Act 1970  
Local Government Act 1972  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Local Government (Review of Decisions) Act 2015  
Localism Act 2011  
Medicines Act 1968  
Mines and Quarries Act 1954  
Mobile Homes Act 2013  
Motor Cycle Noise Act 1987  
Motor Salvage Operators Regulations 2002  
National Assistance Act 1948  
Noise Act 1996  
Noise and Statutory Nuisance Act 1993  
Official Feed and Food Controls (England) (Amendment) Regulations 2011  
Performing Animals (Regulation) Act 1925  
Pesticides Act 1998

Pesticides (Fees and Enforcement) Act 1989  
Pet Animals Act 1951  
Pet Animals Act 1951 Amendment Act 1983  
Petroleum (Consolidation) Regulations 2014  
Pigs (Records, Identification and Movement) Order 1995  
Poisons Act 1972  
Police, Factories etc. (Miscellaneous Provisions) Act 1916  
Pollution Prevention and Control Act 1999  
Pollution Prevention and Control (England and Wales) Regulations 2000  
Prevention of Damage by Pests Act 1949  
Prices Acts 1974  
Proceeds of Crime Act 2002  
Protection of Animals Act 1911  
Public Health Act 1936  
Public Health Act 1961  
Public Health (Control of Diseases) Act 1984  
Public Health (Ships) Regulations 1979  
Public Health (Ships) (Amendment) (England) Regulations 2007  
Public Health Acts Amendment Act 1907  
**Regulatory Enforcement and Sanctions Act 2008**  
Riding Establishments Acts 1964 and 1970  
Road Traffic (Foreign Vehicles) Act 1972  
Road Traffic Acts 1988 and 1991  
Road Traffic Offenders Act 1988  
Road Traffic (Consequential Provisions) Act 1988  
Scrap Metal Dealers Act 2013  
Sheep Scab Order 1997  
Slaughter of Poultry Act 1967  
Slaughterhouse Act 1974  
Solicitors Act 1974  
Sunbeds (Regulations) Act 2010  
Sunday Trading Act 1994  
Telecommunications Act 1984  
Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010  
Tobacco Advertising and Promotion Act 2002  
Town and Country Planning Act 1990  
Town Police Clauses Act 1847  
Trade Descriptions Acts 1968  
Trade Marks Act 1994  
Trading Stamps Act 1964  
Traffic Management Act 2004  
Unsolicited Goods and Services Acts 1971  
Unsolicited Goods and Services Amendment Act 1975  
Video Recordings Acts 1984, 1993 and 2010  
Water Industries Act 1991  
Weights and Measures Act 1985  
Zoo Licensing Act 1981

## Appendix 2 to Table 5 – Delegation of Licensing Act 2003 Responsibilities

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

### Appendix 3 to Table 5 – Delegation of Gambling Act 2005 Responsibilities

Section of Gambling Act 2005	Matter to be dealt with	Delegated to
s162	Decision as to whether representation is vexatious, frivolous, or would certainly not influence the authority's determination of application	Authorised Officer in consultation with Chair or Vice Chair of the Licensing Committee
	Attachment of condition to Premises Licence or exclusion of default condition	Licensing Sub-Committee
s163	Determination of application for Premises Licence where no relevant representations received	Authorised Officer
	Determination of application for Premises Licence in respect of which representations have been made (and not withdrawn)	Licensing Sub-Committee
s187	Determination of application to vary Premises Licence in respect of which no representation received	Authorised Officer
	Determination of application to vary Premises Licence in respect of which representations have been made (and not withdrawn)	Licensing Sub-Committee
s188	Determination of application for transfer of Premises Licence where no representations received	Authorised Officer
	Determination of application for transfer of Premises Licence in respect of which representations have been made (not withdrawn)	Licensing Sub-Committee
s193	Revocation of Premises Licence for failure to pay annual fee	Authorised Officer
s194	Determination that a Premises Licence has lapsed	Authorised Officer
s195	Reinstatement of lapsed Premises Licence where no representation is received	Authorised Officer
	Reinstatement of lapsed Premises Licence in respect of which representations have been made (and not withdrawn)	Licensing Sub-Committee
s198	Rejection of application for review of Premises Licence on various grounds	Authorised Officer in consultation with Chair or Vice Chair of the Licensing Committee
s200	Initiation of review of Premises Licence	Authorised Officer

### Appendix 3 to Table 5 – Delegation of Gambling Act 2005 Responsibilities

Section of Gambling Act 2005	Matter to be dealt with	Delegated to
s201	Determination that representation about review of Premises Licence is frivolous, vexatious or will certainly not influence a review of a Premises Licence	Authorised Officer in consultation with Chair or Vice Chair of the Licensing Committee
s202	Determination of action following review of Premises Licence	Licensing Sub-Committee
s204	Determination of application for provisional statement in respect of which no representations received	Authorised Officer
	Determination of application for provisional statement in respect of Premises Licence where representations have been made (and not withdrawn)	Licensing Sub-Committee
s205	Decision to disregard representations made in respect of application for a Premises Licence after issue of provisional statement	Authorised Officer in consultation with Chair or Vice Chair of the Licensing Committee
s218	Issue of counter notice to Temporary Use Notice where number of permitted days are exceeded	Authorised Officer
s221	Objection to Temporary Use Notice	Authorised Officer
s222	Hearing in relation to a Temporary Use Notice or to agree with other parties in the event of an objection that a hearing is unnecessary	Authorised Officer in consultation with Chair or Vice Chair of the Licensing Committee
s284	Making of Order to remove exemptions from specified premises	Licensing Sub-Committee
s346	Institution of criminal proceedings in respect of an offence under the provisions of the Act	Authorised Officer in consultation with Chair or Vice Chair of the Licensing Committee
Schedule 10, Para 8	Determination of application for Family Entertainment Centre Gaming Machine Permit	Head of Administration (or in their absence the Central Services Manager) (Refusal to be exercised only in consultation with Chairman or Vice-Chairman of the Licensing Committee)
Schedule 10, Para 14,15	Notification of lapse of Family Entertainment Centre Gaming Permit	Authorised Officer in consultation with Chair or Vice Chair of the Licensing Committee
Schedule 11, Para 44	Registration of society for small society Lottery	Authorised Officer

### Appendix 3 to Table 5 – Delegation of Gambling Act 2005 Responsibilities

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

**Appendix 3 to Table 5 – Delegation of Gambling Act 2005 Responsibilities**

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



**Appendix 4 to Table 5 - Hackney Carriage and Private Hire Licensing Responsibilities**

<b>Matter to be dealt with</b>	<b>Delegated to</b>
Application for a Drivers Licence - No concerns over fitness and propriety	Authorised Officer
Application for a Drivers Licence - Doubts on fitness and propriety are minor traffic offences	Authorised Officer
Application for a Drivers Licence - Lapse of time or circumstances for convictions fall outside of the Policy	Licensing Sub-Committee
Application for a Drivers Licence - There is any other doubt on suitability	Licensing Sub-Committee
Revocation of Driver or Operator Licence	Licensing Sub-Committee
Revocation of Vehicle Licence	Authorised Officer
Suspension of Licence	Authorised Officer

## Appendix 5 to Table 5

Administration of Justice Act 1970  
Allotments Act 1922, 1925 and 1950  
Animal Act 1971  
Animal Welfare Act 2006  
Anti-Social Behaviour Act 2003  
Anti-Social Behaviour, Crime and Policing Act 2014  
Burial Act 1853  
Burial Act 1857  
Civic Amenities Act 1967  
Clean Neighbourhoods and Environment Act 2005  
Coast Protection Act 1949  
Conservation of Habitats and Species Regulations 2010  
Construction, Design and Management (CDM) Regulations 2015  
Control of Horses Act 2015  
Control of Pollution Act 1974  
Control of Pollution (Amendment) Act 1989  
Copyright, Designs and Patents Act 1988  
Countryside Act 1968  
Countryside and Rights of Way Act 2000  
Cremation Act 1902 and 1952  
Criminal Damage and Police Act 2001  
Criminal Justice and Public Order Act 1994  
Criminal Damage Act 1971  
Crime and Disorder Act 1998  
Dangerous Dogs Act 1991  
Deregulation Act 2015  
Durham City Council Act 1985  
Electricity at Work Act Regulations 1989  
Environment Act 1995  
Environmental Protection Act 1990  
Firearms Act 1968  
Flood and Water Management Act 2010  
Hazardous Waste (England and Wales) Regulations 2005  
Health and Safety at Work Act 1974  
Highways Act 1980  
Household Waste Recycling Act 2003  
Housing Grants, Construction and Regeneration Act 1996  
Land Drainage Act 1991 and 1994  
Landfill (England and Wales) Regulations 2002  
Local Democracy, Economic Development and Construction Act 2009  
Local Government Act 1972  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Localism Act 2011  
Local Authorities' Cemeteries Order 1977  
Local Transport Act 2008  
Management of Health and Safety at Work Act Regulations 1999  
Museums and Galleries Act 1992

National Parks and Access to the Countryside Act 1949  
Natural Environment and Rural Communities Act 2006  
New Roads and Street Works Act 1991  
Occupiers Liability Act 1984  
Offender Management Act 2007  
Open Spaces Act 1906  
Parochial Registers and Records Measure 1978  
Police Reform Act 2002  
Public Health Act 1925  
Public Health Act 1936  
Public Health Act 1961  
Public Health Acts Amendment Act 1907  
Refuse Disposal (Amenity) Act 1978  
Registration of Burials Act 1864  
Road Traffic Act 1988  
Road Traffic Regulation Act 1984  
Road Traffic (Temporary Restrictions) Act 1991  
Road Traffic Regulation (Special Events) Act 1994  
Safety Sports Ground Act 1975  
Small Holdings and Allotments Act 1908  
Sporting Events (Control of Alcohol etc) Act 1985  
Theatres Act 1968  
Town and Country Planning Act 1990  
Town Improvement Clauses Act 1847  
Town Police Clauses Act 1847  
Traffic Calming Act 1992  
Traffic Management Act 2004  
Transport Act 1968, 1981, 1985 and 2000  
Waste Minimisation Act 1998  
Waste Batteries and Accumulators Regulations 2009  
Waste Electrical and Electronic Equipment Regulations 2013  
Waste (England and Wales) Regulations 2011  
Weeds Act 1959  
Wildlife and Countryside Act 1981

## **Schedule 5**

**Table 6**

### **Delegations to the Corporate Director, Resources**

#### **Executive Functions**

Subject to the requirement set out below and in compliance with the provisions of Table 1 above the Corporate Director, 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
- Human Resources and Organisational Development Services
- ICT Services
- Coroners
- Land charges
- The Registration of Births, Deaths and Marriages

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**

##### **Finance and Corporate Services**

1. To establish an appropriate Debt Management Strategy and Policy and to implement appropriate action to ensure the collection of revenue, council tax and business rates.
2. The administration of housing benefits, including Discretionary Housing Payments and the administration of the Local Council Tax Support Scheme (from 1 April 2013).
3. The provision, operation and commissioning of a Welfare Rights and Citizens Advisory Service.
4. To exercise the budgetary control functions referred to the Corporate Director under the Council's Financial Procedure Rules.
5. To arrange all borrowings, financing and investment in line with the Council's Treasury Management Policy Statement.
6. To maintain an effective internal audit service.
7. To act as lead officer for the Audit Committee.

8. To act as the Risk Management Officer Champion and ensure appropriate risk management arrangements are in place across the Council.
9. To act as lead officer for maintaining effective corporate governance arrangements and the preparation of the Annual Governance Statement
10. To make appropriate banking arrangements on behalf of the Council.
11. To insure against risks where this is considered appropriate.
12. The operation of the Council's accounting systems and payroll.
13. To authorise the release of funds from contingencies as set out in the Revenue Budget and to forecast and to manage the Council's Collection Funds, making adjustments to payments to principal precepting bodies as appropriate.
14. To establish such reserves as required and review them for both adequacy and purpose on a regular basis.
15. To act as Proper Officer for the purposes of the following provisions of the Local Government Act 1972:
  - (a) Section 115(2) (Accountability of Officers);
  - (b) Section 146 (Transfer of Securities on Alteration of Area Etc.)
16. To write off debts.
17. To deal with the payment of Coroner's remuneration and expenses.
18. To ensure appropriate financial arrangements across the Council.
19. To approve premises for the solemnization of marriages and the registration of civil partnerships.
20. To appoint Assistant Coroners in accordance with the provisions of the Coroners and Justice Act 2009.
21. To authorise expenditure within the approved budget for civic hospitality.
22. To agree the terms of loans permitted under law.
23. To make a statutory declaration of local authority mortgage interest.
24. To respond to notices in relation to EU financial sanctions.
25. To receive and respond to expressions of interest under Community Right to Challenge, under Part 5, Chapter 2 of the Localism Act 2011.

26. To forecast yield from Business Rates including the completion and submission to Government of the NNDR 1 and NNDR 3 returns, factoring the implications of the Business Rate Retention Scheme (from 1 April 2013) into the Medium Term Financial Plan and maintaining a Collection Fund in accordance with proper accounting practice.
27. To establish a Council Tax Discretionary Reduction Policy and Business Rates Hardship Relief Policy and administer applications for relief under Section 13A(1)(c) of the Local Government Finance Act 1988.
28. To liaise with the Schools Forum on School Funding formula allocations and to advise Council on formula changes to ensure compliance with Department for Education guidance and regulations and the proper administration of Dedicated Schools Grant allocations.
29. To apply to the Court of Protection for deputyship or single orders related to finance and property.
30. To waive or reduce charges for care services in individual cases.
31. To disregard the value of a property in a financial assessment.
32. In relation to the Pension Fund, to exercise the County Council's function as administering authority relating to the Local Government Pension Scheme including, but not restricted to, the following:
  - (a) To ensure that Pension Fund complies with the Local Government Pension Scheme Regulations and all other legislation that governs the administration of the Pension Fund.
  - (b) To exercise discretions the Council as administering authority has, under the regulations governing the Local Government Pension;
  - (c) To administer the financial affairs of the Pension Fund;
  - (d) To agree the write-off of bad debts;
  - (e) To take any decision relating to the investment or management of the Pension Fund that cannot reasonably await the next meeting of the Pension Fund Committee.
  - (f) To authorise, in cases of urgency, the taking of any action by a Manager of the Pension Fund that is necessary in order to protect the interests of the Fund.
  - (g) To maintain all necessary accounts and records in relation to the Pension Fund, including the preparation of the Annual Accounts;

- (h) To ensure that appropriate arrangements for the administration of benefits are in place, including the calculation of and payment of benefits, and collection of contributions;
- (i) To manage the triennial valuation of the Pension Fund including the preparation of membership data for actuarial valuation purposes.
- (j) To ensure appropriate Additional Voluntary Contribution arrangements are in place;
- (k) To pay death grants in accordance with the agreed Death Grant Procedures
- (l) To approve the payment of Dependants' Pensions in accordance with the agreed procedures
- (m) To maintain the system of internal control.
- (n) To accept for admission into the Pension Fund employees of authorities and bodies as prescribed in Regulations;
- (o) To deal with stage 2 appeals under the dispute procedure for the Local Government Pension Scheme.
- (p) To set the appropriate investment objectives and the strategic asset allocation taking into consideration the Pension Fund's liabilities as calculated by the Pension Fund's Actuary;
- (q) To monitor and review the investments made by the investment managers and to review their performance against established benchmarks. To report on the Investment Managers' performance to each meeting of the Pension Fund Committee;
- (r) To manage the Pension Fund's cash flow and allocate funds between investment managers in order to ensure that the Pension Fund's strategic asset allocation is maintained and invest the residual cash balances.
- (s) To manage the cash balances not allocated to Investment Managers in accordance with the Treasury Management Strategy and Policy approved by the Pension Fund Committee;
- (t) To arrange and authorise the provision of appropriate Member training, including the attendance at conferences and other similar pension fund related events by Members of the Pension Fund Committee.
- (u) To prepare and submit the necessary Policy Statements to Pension Fund Committee and to arrange for the implementation and review of those statements, strategies, policies and procedures, as required. These include the Funding Strategy Statement

- (v) To prepare and submit the necessary plans and principles to the Pension Fund Committee and to arrange for the implementation and review of those plans and principles, as required. These include the Pension Fund Annual Report and the Statement of Investment Principles.
- (w) To review the policy on social, environmental and ethical matters on the exercise of rights, including voting rights;
- (x) To produce as part of the Funding Strategy Statement, an assessment of all the specific risks that can be identified in relation to the management of the Pension Fund.

### **Human Resources and Organisational Development**

- 33. To implement the Council's decisions in relation to Single Status and Job Evaluation.
- 34. To approve the regrading of posts up to and including Head of Service level.
- 35. To offer alternative employment to any permanent employee who becomes surplus to the requirements of the Service or whose employment is at risk through reasons of ill health or other incapacity.
- 36. To determine applications for the extension of sick pay.
- 37. To approve applications for leave of absence in cases not covered by the Council's policies.
- 38. To agree variations to the Council's scheme for payments towards removal expenses, lodging allowances and legal fees for new employees.
- 39. To approve overtime payments for employees above spinal column point 28.
- 40. To authorise redundancy payments to school staff after consultation with the Head of Corporate Finance.
- 41. To coordinate the Member Training and Development Programme including:
  - (a) management of the approved Member Training and Development Budget and
  - (b) authorisation of Member attendance at conferences, seminars and other training and development events in consultation with the Leader and the Head of Legal and Democratic Services.
- 42. To decide, taking into account the opinion of an independent registered medical practitioner, whether under the Local Government Pension Scheme



Regulations, a member is eligible for an ill health pension and if eligible, what level of ill health pension the scheme member should be awarded.

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

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

45. To formulate and implement policies relating to employed staff.

### **Legal and Democratic Services**

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

46. To act as Proper Officer for the purposes of the Local Government Acts 1972 and 2000 and all Regulations made there under other than those Proper Officer functions delegated to the Corporate Director, Resources in connection with the administration of the Council's financial affairs. This delegation shall not derogate from the general delegation under Table 1 paragraph 8.
47. (a) To act as Returning Officer for County Council Elections in accordance with Section 35 of the Representation of the People Act 1983 (the 1983 Act).
- (b) To act as Electoral Registration Officer for the County in accordance with Section 8 of the 1983 Act.
48. To carry out the Proper Officer functions relating to the freedom of the City under the Durham City Council Act, 1985.
49. To act as Proper Officer for the Registration of Births, Deaths and Marriages Service pursuant to Schedule 29 paragraph 41 of the Local Government Act 1972 including administration of the arrangements for the licensing of premises under the Marriage Act and the appointment of staff.
50. To amend the Constitution where necessary to reflect changes in the law or decisions of council bodies or to correct inaccuracies.
51. (a) To prepare, negotiate and agree all legal documentation in relation to all land and property in the Council's ownership or for the acquisition of land and property by the Council.
- (b) To prepare, negotiate and agree all legal documentation other than those contained in sub-paragraph (a) relating to or affecting the functions of the Council.

- (c) To sign or attest the Council's seal in all legal documents referred to in sub-paragraphs (a) and (b) and all other legal documentation intended to give effect to decisions of the Council.
- 52.
  - (a) To prepare, negotiate and agree all legal documentation in relation to all land and property held by the Council as a trustee.
  - (b) To sign or attest the Council's seal to all documents referred to in sub-paragraph (a)
- 53. To sign any notice, demand or other document on behalf of the Council in connection with any actual or contemplated legal or enforcement proceedings.
- 54.
  - (a) Generally, to institute, defend and conduct any legal proceedings relating to the Council's functions or affecting the property, rights or interests of the Council.
  - (b) To authorise named officers to appear on behalf of the Council in legal proceedings in the Magistrates' Court pursuant to Section 223 Local Government Act 1972.
- 55. To settle any action in any court or tribunal in which the Council is a party or where legal proceedings are indicated providing that any settlement exceeding £50,000 will be subject to prior consultation first with the Corporate Director, Resources as s151 Officer and then with the Leader or Deputy Leader of the Council except in cases of urgency where the settlement is made on the advice of Counsel.
- 56. To settle claims from staff for damage to personal property in accordance with the Council's policies.
- 57. In consultation with the Chairman of the ~~Standards Committee~~ **Corporate Issues, Overview and Scrutiny Committee**, to make payments or provide other benefits in cases of maladministration in accordance with Section 92 of the Local Government Act 2000 (as amended).
- 58. To:
  - (a) appoint Members as proxies to attend and vote at shareholders meetings of any company of which the Council is a shareholder and
  - (b) give consent to written resolutions of any company of which the Council is a shareholder.
- 59. In consultation with the Chief Executive, to make appointments of Members to local and other outside bodies which are not the subject of report to the Council or the Executive, in consultation with the respective political group leaders.

60. To appoint Review Boards under Regulations under Section 34(4) (Determination of Claims and Reviews) of the Social Security Act 1998.
61. To make arrangements in relation to appeals against the exclusion of pupils from maintained schools.
62. To make arrangements pursuant to Sections 94(1), (1A) and (4) of the Schools Standards and Framework Act 1998 (Admission Appeals).
63. To make arrangements pursuant to Section 95(2) of the Schools Standards and Framework Act 1998 (Children to whom Section 87 applies; Appeals by Governing Bodies).
64. In consultation with the Corporate Director, Neighbourhood Services and the Chairman and Vice-Chairman of the Statutory Licensing Committee or General Licensing and Registration Committee as appropriate, to determine that a particular application shall be considered by the Statutory Licensing Committee or the General Licensing and Registration Committee rather than a Sub-Committee.
65. To consider and respond to representations made by members of the public in relation to a decision to hold a meeting or part of that meeting in private.
66. To discharge the Council's functions in relation to voluntary registrations of village greens as set out in section 15(8) Commons Act 2006.
67. To discharge the Council's functions set out in Part 1 of the Commons Act 2006 and the Commons Registration Act 1965 with the exception of determinations under section 15(1) of the Commons Act 2006.
68. To appoint an inspector to hold an inquiry into applications to register land as town or village green where appropriate.
69. To discharge the Council's functions in relation to Local Land Charges.

## **Article 9 – The Standards Committee**

### **9.01 Standards Committee**

The Council meeting will establish a Standards Committee.

### **9.02 Composition**

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

### **9.03 Role and Function**

The Standards Committee will have the following roles and functions:-

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

- (h) the determination of allegations of misconduct on the part of Members and Co-opted Members of the Council and Parish and Town Council Members;
- (i) dealing with any alleged breach by a Member of a Council Protocol, in accordance with procedures approved by the Committee;
- (j) overview of the Officers' Code of Conduct;
- (k) overview of the Protocol on Member/Officer Relations;
- ~~(l) overview of payments or provision of other benefits in cases of maladministration.~~

#### **9.04 Parish and Town Council Sub-Committee**

The Standards Committee will appoint a sub-committee comprising 3 Councillors. The remit of the Sub-Committee will be to support Parish and Town Councillors and their Clerks in maintaining high standards of conduct, whether through training or otherwise, and for this purpose to maintain close links with the County Durham Association of Local Councils.



# **CODE OF CONDUCT FOR MEMBERS**

**Adopted by Durham County Council on 25 July 2012**

## **CODE OF CONDUCT FOR MEMBERS**

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

The County Council of Durham ("the Council") has adopted the following code which has effect from 26th July 2012 and which sets out the conduct that is expected of elected and co-opted members of the Council when they are acting in that capacity.

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.

'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

The code is intended to be consistent with Nolan's Seven Principles of Public Life, and should be read in the light of those principles, namely that Council Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those Principles are not part of this Code but are set out in full at Annex 1 for information.

### **Part 1 - General Conduct**

1. You must treat others with respect, including Council officers and other elected members.
2. You must not bully 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 this code of conduct
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Council.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council, or your office as a member of the Council, into disrepute.
5. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
6. You must comply with any Protocol adopted by the Council which seeks to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this code of conduct and which is listed in Annex 4 to this Code.



7. When using or authorising the use by others of the resources of the Council, you must act in accordance with the Council's reasonable requirements (as set out in such protocol as it may adopt from time to time for these purposes) and must ensure they are not used for party political purposes.
8. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
9. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
  - (a) You have the consent of a person authorised to give it; or
  - (b) You are required by law to do so; or
  - (c) The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
  - (d) The disclosure is reasonable and in the public interest and made in good faith.
10. Where you have been involved in making any decision by the Council which is subsequently subject to scrutiny by an overview and scrutiny committee of the Council, you must not take part in that scrutiny process except to the extent you may be invited by the committee to give evidence to, or otherwise assist, it. In this paragraph, 'scrutiny' means the formal examination of a policy or decision previously approved or taken by or on behalf of the Council in order to reach a view as to its merits or effectiveness.

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

11. You must register in the Council's Register of Members Interests information about your registerable personal interests. In this code of conduct 'your registerable personal interests' means
  - (a) any Disclosable Pecuniary Interest as set out in Annex 2; or
  - (b) any other interest held by you as set out in Annex 3.

You must register information about your registerable personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a member of the Council; and
- any change taking place in your registerable personal interests.

(Note: Failure without reasonable excuse to register a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code)

Where you think that disclosure of the details of any of your registerable personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, the Monitoring Officer may at your request make a note on the Register that you have a personal interest, details of which are withheld.

### **Part 3 – Non-registerable interests**

12. You will have a non-registerable personal interest when you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are, or ought reasonably to be, aware that a decision in relation to an item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 13 to a greater extent than most inhabitants of the area affected by the decision.

13. The persons referred to in paragraph 12 are:

- (a) a member of your family;
- (b) any person with whom you have a close association;
- (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.

(Note:

- (a) “A member of your family” means: your partner (i.e. your spouse, civil partner or anyone with whom you live in a similar capacity); your parent or parent-in-law; any child, stepchild or sibling of you or your partner; your grandparent, grandchild, aunt, uncle, nephew or niece; and the partners of any of those people.
- (b) You have a “close association” with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour or disadvantage that person when deciding a matter which affects them).

14. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that you have a non-registerable interest in an item of business (as defined in paragraph 12) you must disclose that interest to the meeting before consideration of that item begins or (if later) when you become aware of the interest.

### **Part 4 - Non-Participation in Council Business**

15. When you attend a meeting of the Council or Cabinet, or one of their committees or sub-committees, and you are aware that you have a Disclosable Pecuniary Interest or you are aware that the criteria set out in paragraph 16 are satisfied in relation to any matter to be considered, or being considered at that meeting, you must :

Declare that fact to the meeting;

- (a) Not participate (or further participate) in any discussion of the matter at the meeting; and
- (b) Not participate in any vote (or further vote) taken on the matter at the meeting;
- (c) Leave the room whilst the matter is being discussed.

16. The criteria for the purposes of paragraph 15 are that:

- (a) You have a registerable or non-registerable personal interest in the matter which is such that a member of the public knowing the relevant facts would reasonably think it so significant that it is likely to prejudice your judgement of the public interest; and either
- (b) The matter will affect the financial position of yourself or one of the persons or bodies referred to in paragraph 13 or in any of your register entries; or
- (c) The matter concerns a request for any permission, licence, consent or registration which relates to or affects any of the persons referred to in paragraph 13 or in any of your register entries.

17. If a Council function can be discharged by you as a member acting alone and you are aware you have a registerable or non-registerable personal interest in any matter to be dealt with by in that way which meets the criteria set out in paragraph 16, you shall not deal with that matter in any way (except to enable it to be dealt with by someone else).

(Note: Failure, without reasonable excuse, to comply with paragraphs 15 to 17 in relation to a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code)

18. Paragraphs 15 to 17 do not apply if (i) you have a relevant dispensation under section 33 of the Localism Act 2011 or (ii) the matter in question relates to any of the following functions of the Council:

- (a) housing, where you are a Council tenant provided the matter does not relate particularly to your tenancy or lease;
- (b) school meals or school transport, where you are a parent or guardian of a child in full-time education or a parent governor of a school, unless the matter relates particularly to the school your child attends;
- (c) statutory sick pay where you are in receipt of, or entitled to receipt of, such pay;
- (d) an allowance, payment or indemnity given to members;
- (e) any ceremonial honour given to members; and
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

## **Annex 1 to Code of Conduct**

### **Nolan's Seven Principles of Public Life**

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **Annex 2 to Code of Conduct**

### **Disclosable Pecuniary Interests**

*(as defined by Regulations made by the Secretary of State under section 30 Localism Act 2011)*

**Please Note:** The following interests are Disclosable Pecuniary Interests if they are an interest of either (a) **yourself**, or (b) **your spouse or civil partner**, or (c) **a person with whom you are living as husband and wife**, or (d) **a person with whom you are living as if you were civil partners** (all of whom are referred to as “relevant persons”):-

**Employment, office, trade, profession or vocation** - Any employment, office, trade, profession or vocation carried on for profit or gain.

**Sponsorship** - Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out your duties as a member, or towards your election expenses.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

**Contracts** - Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council —

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

**Land** - Any beneficial interest in land which is within the area of the Council.

**Licences** - Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.

**Corporate tenancies** - Any tenancy where (to your knowledge)—

- (a) the landlord is the Council; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

**Securities** - Any beneficial interest in securities of a body where—

- (a) that body (to your knowledge) has a place of business or land in the area of the Council ; and
- (b) either -

- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

- (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Note: In the above descriptions, the following words have the following meanings –

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## **Annex 3 to Code of Conduct**

### **Other Registerable Personal Interests**

The other interests which you must register under paragraph 11(b) of the code are:

1. Any body of which you are a member (or in a position of general control or management) to which you are appointed or nominated by the Council;
2. Any body which (i) exercises functions of a public nature or (ii) has charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member (or in a position of general control or management);
3. Any person from whom you have received within the previous three years a gift or hospitality with an estimated value of more than £50 which is attributable to your position as an elected or co-opted member of the Council.

Note: These mean only your interests and not those of your spouse or civil partner

## **Annex 4 to Code of Conduct**

### **Associated Protocols**

The Council has adopted the following Protocols which are intended to regulate the conduct of its elected members or co-opted members and which the Council has specifically declared should fall within the provisions of this code of conduct pursuant to paragraph 6 of the code:

Code of practice for members and officers dealing with Planning Matters  
Protocol on Member/Officer Relations



## Appendix 6: Responsibility for Non-Executive or Council Functions - County Planning Committee

### A. RESPONSIBILITY FOR NON-EXECUTIVE OR COUNCIL FUNCTIONS

\* Denotes a local choice function.

Council Body	Membership	Functions
County Planning Committee	16 Members of the Council excluding Members of the Executive	<p>Except where the matter is delegated to an officer:</p> <ol style="list-style-type: none"> <li>To exercise the Council's functions relating to town and country planning and development control as set out in Section A of Schedule 1 to the 2000 Regulations, in relation to the following matters: <ul style="list-style-type: none"> <li>Residential development proposals involving 200 or more dwellings or a site area of 4 hectares or more</li> <li>All non-residential development proposals (including commercial, retail and industrial developments) of 10,000 or more square metres floorspace or a site area of 2 hectares or more.</li> <li>Development proposals involving the erection of one or more wind turbines described as Medium-Large or Large and having a height in excess of 40 metres to the blade tip <b>or a site area of 1 hectare or more.</b></li> <li>Applications for renewable energy. developments (including Biomass, Hydro-Electric, Geothermal, Gasification or Photovoltaics) <b>of 1,000 or more square metres or a site area</b> of 1 hectare or more.</li> <li>All development proposals relating to minerals or waste</li> </ul> </li> </ol> <p>Development which in the opinion of the Head of Planning Services is of strategic significance, including strategic schemes promoted by the County Council.</p>