

Public Document Pack



PLEASE NOTE THAT PRAYERS WILL BE HELD AT 6.50PM BEFORE THE COMMENCEMENT OF THE BUSINESS OF THE COUNCIL.

THE MAYOR REQUESTS THAT ANY MEMBER WISHING TO PARTICIPATE IN PRAYERS BE IN ATTENDANCE BY NO LATER THAN 6.45PM.

Dear Sir/Madam,

You are summoned to attend the meeting of the Borough Council of Newcastle-under-Lyme to be held in the **Jubilee 2 - Dance Studio - (Second Floor) - Brunswick Street, Newcastle, Staffs** on **Wednesday, 20th November, 2019** at **7.00 pm**.

B U S I N E S S

1 APOLOGIES

2 DECLARATIONS OF INTEREST

To receive declarations of interest from Members on items contained within this agenda.

3 MINUTES OF PREVIOUS MEETING

(Pages 9 - 18)

To consider the minutes of the previous meeting(s)

4 MAYOR'S ANNOUNCEMENTS

5 CLOUGH HALL PARK PETITION

(Pages 19 - 22)

To consider the petition in accordance with the arrangements under the Council's Petition Scheme (Appendix 27 of the Council's Constitution).

6 REVIEW OF POLLING DISTRICTS AND POLLING PLACES 2019

(Pages 23 - 52)

7 APPOINTMENT OF SENIOR OFFICERS

(Pages 53 - 56)

8 REVIEW AND UPDATE OF THE BOROUGH COUNCIL OF NEWCASTLE-UNDER-LYME'S COUNCIL AND COMMITTEE PROCEDURE RULES

(Pages 57 - 80)

9 REVIEW AND UPDATE OF ACCESS TO INFORMATION PROCEDURE RULES

(Pages 81 - 104)

- 10 REVIEW AND UPDATE OF RESPONSIBILITIES OF THE COUNCIL, ITS COMMITTEES AND SUB COMMITTEES (Pages 105 - 132)**
- 11 AMENDMENTS TO THE SCHEME OF DELEGATION FOR LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 AND TOWN POLICE CLAUSES ACT 1847 (Pages 133 - 142)**
- 12 DELEGATIONS TO PLANNING COMMITTEE HIGH SPEED RAIL (WEST MIDLANDS- CREWE) ACT (Pages 143 - 156)**
- 13 FREEDOM OF THE BOROUGH PROTOCOL (Pages 157 - 164)**
- 14 GREAT CRESTED NEWT DISTRICT LICENSING SCHEME (Pages 165 - 170)**
- 15 STATEMENT OF THE LEADER OF THE COUNCIL (Pages 171 - 174)**
To receive a statement by the Leader of the Council on the activities and decisions of Cabinet and items included on the Forward Plan.
- 16 REPORTS OF THE CHAIRS OF THE SCRUTINY COMMITTEES (Pages 175 - 180)**
Written reports are attached for the following:
- a) Finance, Assets and Performance Scrutiny Committee
 - b) Health, Wellbeing and Partnerships Scrutiny Committee
- A verbal update will be given for the Economy, Environment and Place Scrutiny Committee
- 17 REPORTS OF THE CHAIRS OF THE REGULATORY COMMITTEES (Pages 181 - 182)**
A written report is attached for the Audit and Standards Committee.
- Verbal updates will be given for the following:
- a) Planning Committee
 - b) Licensing and Public Protection Committee
- 18 MOTIONS OF MEMBERS**
None received.
- 19 QUESTIONS TO THE MAYOR, CABINET MEMBERS AND COMMITTEE CHAIRS**
- 20 RECEIPT OF PETITIONS**
To receive from Members any petitions which they wish to present to the Council.
- 21 STANDING ORDER 18 - URGENT BUSINESS**

To consider any communications which pursuant to Appendix 7 – paragraph 7 of the constitution are, in the opinion of the Mayor, of an urgent nature and to pass thereon such resolutions as may be deemed necessary.

22 DISCLOSURE OF EXEMPT INFORMATION

To resolve that the public be excluded from the meeting during consideration of the following report(s) as it is likely that there will be disclosure of exempt information as defined in paragraphs contained within Part 1 of Schedule 12A (as amended) of the Local Government Act 1972.

Yours faithfully

A handwritten signature in black ink, appearing to read "Martin T. Hamilton".

Chief Executive

NOTICE FOR COUNCILLORS

1. Fire/Bomb Alerts

In the event of the fire alarm sounding, leave the building immediately, following the fire exit signs..

Fire exits are to be found at the side of the room leading into Queens Gardens.

On exiting the building Members, Officers and the Public must assemble at the statue of Queen Victoria. DO NOT re-enter the building until advised to by the Controlling Officer.

2. Attendance Record

Please sign the Attendance Record sheet on entering the building. This will be located at the reception desk.

3. Mobile Phones

Please switch off all mobile phones before entering the Council Chamber.

4. Notice of Motion

A Notice of Motion other than those listed in Standing Order 19 must reach the Chief Executive ten clear days before the relevant Meeting of the Council. Further information on Notices of Motion can be found in Section 5, Standing Order 20 of the Constitution of the Council.

SUBSTITUTE MEMBER SCHEME (Appendix 9, Section 4 of Constitution)

The Constitution provides for the appointment of Substitute members to attend Committees. The named Substitutes for this meeting are listed below:-

Substitute Members:

If you are unable to attend this meeting and wish to appoint a Substitute to attend in your place you need go:

- Identify a Substitute member from the list above who is able to attend on your behalf
- Notify the Chairman of the Committee (at least 24 hours before the meeting is due to take place) NB Only 2 Substitutes per political group are allowed for each meeting and your Chairman will advise you on whether that number has been reached

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

NOTE: THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY THROUGH THE FIRE EXIT DOORS.

ON EXITING THE BUILDING, PLEASE ASSEMBLE AT THE FRONT OF THE BUILDING BY THE STATUE OF QUEEN VICTORIA. DO NOT RE-ENTER THE BUILDING UNTIL ADVISED TO DO SO.

NOTICE FOR COUNCILLORS

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6. Attendance Record

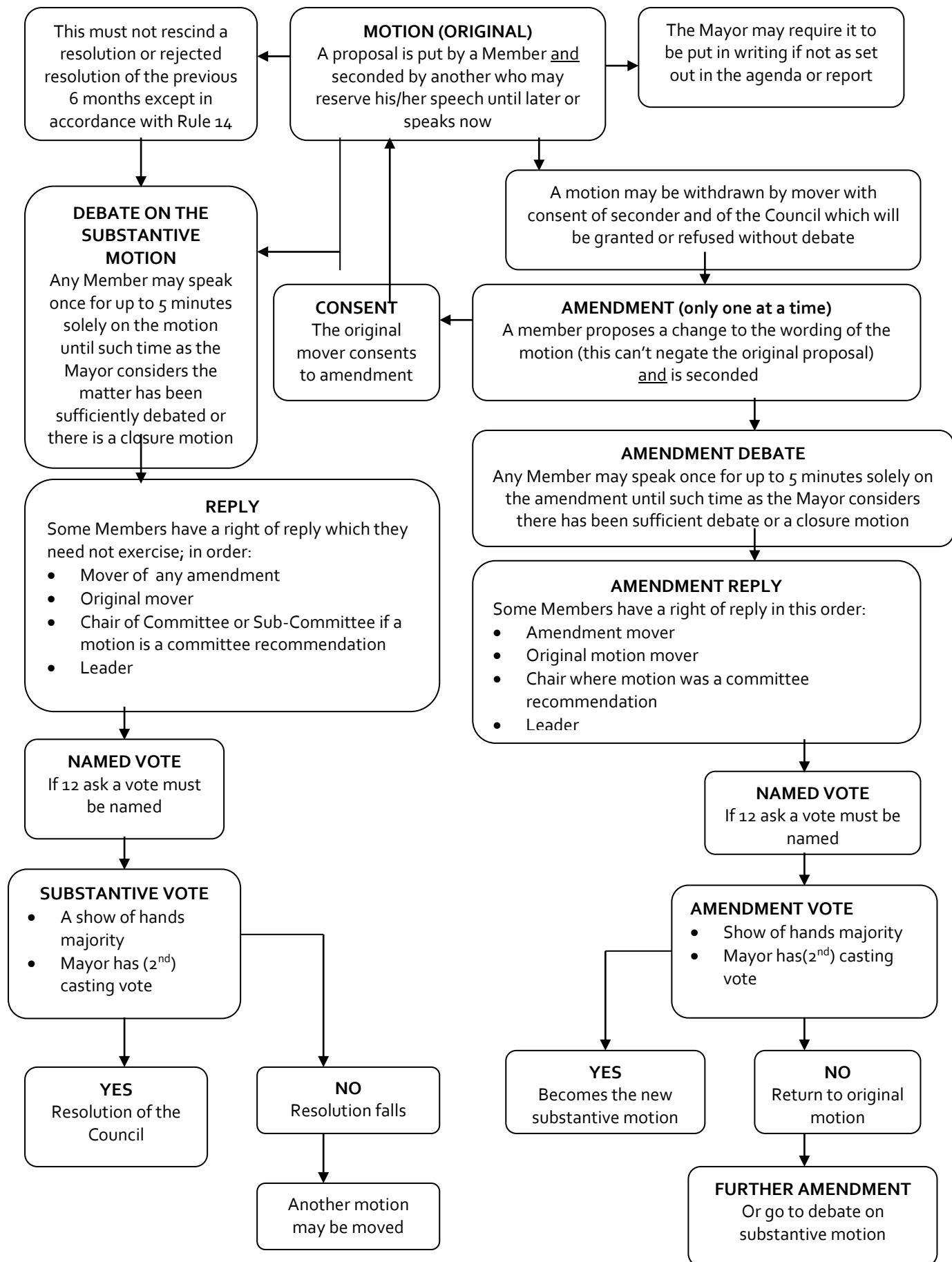
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COUNCIL

Wednesday, 18th September, 2019

Time of Commencement: 7.00 pm

Present: The Mayor- Councillor Simon White (Chair)

Councillors:	S. Burgess	T. Johnson	K. Robinson
	G. Burnett	D. Jones	A. Rout
	Miss J Cooper	T. Kearon	M. Stubbs
	Mrs J Cooper	A. Lawley	S. Sweeney
	J. Cooper	H. Maxfield	J Tagg
	S. Dymond	S. Moffat	S Tagg
	A. Fear	P. Northcott	J. Walklate
	A. Fox-Hewitt	M. Olszewski	J Waring
	A. Gardner	K.Owen	P Waring
	G. Heesom	B. Panter	G Williams
	M. Holland	A. Parker	J Williams
	E. Horsfall	S. Pickup	R. Wright
	Hutton	B. Proctor	
	B. Johnson	M. Reddish	

Officers: Geoff Durham - Mayor's Secretary / Member Support Officer
Caroline Elwood - Interim Head of Legal / Monitoring Officer
Martin Hamilton -Chief Executive
Jan Willis - Interim Executive Director - Resources and Support Services
and Section 151 Officer

1. **APOLOGIES**

Apologies were received from Councillors' Shenton, G White and Wilkes.

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

3. **MINUTES OF PREVIOUS MEETING**

Resolved: That the minutes of the meeting held on 24 July, 2019 be agreed as a correct record.

4. **MAYOR'S ANNOUNCEMENTS**

The Mayor advised Members of three upcoming events:

Mock Mayor Making Ceremony on Saturday 21 September

Curry Evening on Monday 21 October

Remembrance Day Parade and Church Service on Sunday 10 November

5. **TREASURY MANAGEMENT ANNUAL REPORT 2018/19**

The Portfolio Holder for Finance and Efficiency introduced the Treasury Management Annual Report for 2018/19, which had been produced in line with legislative requirements.

The Annual Report was appended to the agenda report.

Councillor Stubbs stated that it was a positive report.

- Resolved:**
- (i) That the Treasury Management Annual Report for 2018/19 be received.
 - (ii) That the actual Prudential Indicators contained within the report be approved.

6. PUBLIC SPEAKING AT PLANNING - PROTOCOL

The Portfolio Holder for Planning and Growth, Councillor Paul Northcott introduced a report for members to review the existing scheme for Public Speaking at Planning Committee and to discuss proposed amendments.

Councillor Northcott stated that it reflected changes to incorporate modern technology and enabled speakers to do their presentations using plans and information that was available on the website.

Members were referred to Appendix A of the report outlining the protocol.

Councillor Simon Tagg supported the protocol stating that it was a great improvement and would be a useful reference for the speakers.

Members all agreed with the protocol stating that it would give everyone a fair advantage.

Councillor Proctor commented that, as Planning Committee meetings were now recorded, anyone making a presentation should be seated rather than standing to allow the microphones to pick everything up clearly.

The Chair to the Constitution and Member Support Working Group, Councillor Mark Holland stated that the protocol had been circulated to members of the group and that they were happy with its content. A comment was made that it would be useful if officers, wherever possible, could contact any speakers should an application be withdrawn from a meeting which they were planning to attend.

Councillor Kearon observed that the policy proposed that, a request to speak at Planning Committee required three working days notice but to use plans was 48 hours notice. If a Planning Committee takes place on a Tuesday, the period would commence on Sunday which didn't give officers much time to pull the information together.

Councillor Northcott advised that the information allowed to be displayed at meetings would already be in the public domain and would not include any 'new' information.

- Resolved:** That the existing scheme be amended to reflect the proposed changes in the document at Appendix A to the report.

7. STATEMENT OF THE LEADER OF THE COUNCIL

The Leader, Councillor Simon Tagg submitted a report which provided an update to Members on the activities and decisions of the Cabinet, together with the Forward Plan.

The statement was taken a paragraph at a time to allow for questions to be asked.

Paragraph 2:

Councillor Robinson asked the Leader if any staff operating the CCTV in Stoke on Trent would be affected by the job cuts that had been announced by the Authority.

The Leader stated that, as far as he was aware the redundancies at Stoke were voluntary ones and therefore could not comment as to any affect. However, the Borough was paying the city for the service to continue.

Councillor John Williams commented that Newcastle had been accused of 'selling out' to the City Council.

The Leader advised that local business had taken the CCTV on. The equipment would be owned by the Borough Council and the BID. Stoke on Trent City Council would monitor it for us as they have a sophisticated system.

Councillor John Cooper asked if, when the system was up and running, if Community Centres, for example could be added into the link.

The Leader advised that discussions could be had with other areas about being included in the upgraded system, adding that Madeley had invested in a system which could be linked in.

Councillor Hutton stated that, as Chair of the Local Safer Network Panel he could confirm that the Police were very supportive of the initiative.

The Leader confirmed that the Police do agree with the initiative but as yet were not putting any money into the scheme. The Police were looking to a Staffordshire wide scheme which they could invest in.

Councillor Sweeney stated that the Business Improvement District had put a large sum of money into the scheme and thanked them for their support.

Paragraph 3:

Councillor Gill Burnett commended the Leader and officers for producing the Plan which included Newcastle Town Centre and Kidsgrove. Councillor Burnett added that its success depended upon working with partners and asked the Leader what part Kidsgrove Town Council would play in any discussions.

The Leader stated that he was pleased with the document and referred to the Action Plan. With regard to Kidsgrove Town Council, Go Kidsgrove were coming on board and the Leader would welcome any dialogue from the Town Council.

Councillor John Williams asked what the money would be spent on.

The Leader referred Members to the Strategy.

Councillor Stubbs asked why Kidsgrove Town Council were not approached at the start of the process and why nothing had been brought up at Town Council meetings.

The Leader stated that everyone needed to work together and made reference to the Local Neighbourhood Development Plan which was currently being worked on.

Paragraph 4:

Councillor John Cooper thanked officers for the work that had been done on this on behalf of people suffering from dementia or autism.

Councillor Panter welcomed the assurance that the face to face contact would not be lost.

The Leader agreed that Councillor Cooper and Panter's comments were well made.

Councillor Sweeney stated that it was an excellent Strategy. It costs £8 for face to face contact and 8p for online. Councillor Sweeney added that the online form filling process was straight forward.

Councillor Brian Johnson stated that the Council's website was not as easy to navigate as it could be and asked that, in the interest of transparency, would this be looked at.

The Leader stated that the Council's website had been 'four stars' for years but now needed overhauling and agreed that navigation to the required pages often involved too many 'clicks'.

Councillor Northcott welcomed the Strategy stating that the public were becoming more confident in engaging digitally. More people were doing online shopping and form filling online.

Paragraph 5:

Councillor Fox-Hewitt stated that the Council, as an employer was legally obliged to include the additional holiday pay.

Councillor Sweeney stated that constructive discussions had taken place with the Trade Unions.

Councillor Proctor congratulated the Trade Union Representatives and the Council's Human Resources section who had been involved in the discussions stating that an element of trust was being shown.

The Leader stated that the Council now had a good relationship with the Trade Unions and that more HR agreements were in the pipeline.

Paragraph 8:

Councillor Burnett advised that Kidsgrove residents were happy with the Deal and were looking forward to seeing what benefits it would bring.

Councillor Robinson asked if a bid was required to apply for the fund and, if so, could members see it or be advised how Kidsgrove was chosen.

The Leader advised that no bids had been submitted. The Government had looked at areas requiring regeneration and would work with the Council on a Town Deal.

Councillor Jenny Cooper stated that it was good news that Newcastle Town Centre had progressed to the next stage and enquired as to the next steps.

The Leader thanked Councillor Cooper for her comments adding that the fact that Newcastle was through to the next stage was testament to the hard work of officers.

Councillor Holland stated that guidance was being produced on how the Future High Streets Fund would work.

The next stage would be more difficult and would require more preparation.

Councillor John Williams welcomed any money coming into the town centre and hoped that the community would be involved as to how it could be spent.

Councillor Williams added the Country had suffered with austerity for years and it was well known that former industrial areas would suffer post-Brexit and money would need to be spent wisely to bring prosperity back.

Councillor Paul Waring welcomed the funding and asked that Town Councillors be involved in the production of the Kidsgrove Town Plan.

Councillor Julie Cooper asked if, when the bid was received, could money go to smaller areas within the Borough.

Councillor Olszewski asked the Leader if he had considered working with stakeholders and if so, who.

Councillor Brian Johnson asked if the bids for Newcastle Town Centre and Kidsgrove were two separate entities or if it was one bid, would money be spent equally.

The Leader confirmed that they were two separate bids and the Council would be working with the Government, County Council, Parish and town Council's and local stakeholders to progress the bids.

Paragraph 9:

Councillor John Cooper thanked the staff for their hard work. Councillor Hutton referred Members to the final paragraph under number 9 regarding the judges comments.

Councillor Robinson expressed his thanks to the volunteers who had helped with the Reginald Mitchell Memorial Garden. This was the first year that they could enter Britain in Bloom and had received an invitation to the awards ceremony.

Councillor Holland also expressed thanks to people in the community that had joined in and gave special congratulations to Silverdale Country Park. Councillor Holland added that this was the eighteenth year that Newcastle had won a Gold Award.

Next year marked the thirtieth anniversary of Newcastle's participation of Britain in Bloom.

The Leader echoed everything that had been said by Members adding that the Newcastle in Bloom Awards would take place in November. In addition, the Leader stated that the thirtieth anniversary of the Borough participation in the competition should be celebrated.

The Queens Gardens looked good for every season and were a credit to the Borough. The Leader expressed his thanks to the Executive Director for operations – Dave Adams and his team.

Paragraph 10:

Councillor Maxfield queried the reference to Kidsgrove Sports Centre being discussed at the Cabinet meeting in October.

The Leader confirmed that a report would be taken to October Cabinet. A lot had happened over the summer, with an architect and project manager being appointed.

Councillor Brian Johnson stated that there were 1000 empty homes in the Borough and asked for an update on the homeless and rough sleepers.

The Leader advised that the Portfolio Holder for Community Safety and Wellbeing, Councillor Jill Waring would prepare a written response to all Members.

8. REPORTS OF THE CHAIRS OF THE SCRUTINY COMMITTEES

Only the Health, Wellbeing Partnerships Scrutiny Committee had met since the last Council meeting. The Chair, Councillor Ian Wilkes had sent apologies for this meeting and therefore no verbal update was given.

9. REPORTS OF THE CHAIRS OF THE REGULATORY COMMITTEES

A written report had been submitted for the Audit and Standards Committee.

Verbal updates were given by the Chairs of the Planning Committee and Licensing and Public Protection Committee.

Councillor Fear welcomed the receipt at this meeting of the Public Speaking at Planning Protocol. Members were advised that an outstanding appeal case had been reported at the last Planning Committee meeting, where a decision was awaited from the Inspector. A letter had been sent to the Planning Inspectorate on behalf of the Planning Committee for an update.

Councillor Olszewski advised that at the last Licensing and Public Protection Committee, the increase to Hackney Carriage Fares had been agreed by Members but the request to alter the start time for Tariff 2 had been rejected.

The new Taxi Licensing policy would be implemented in two stages – 1 November, 2019 would be the first stage followed by 1 January, 2020.

Resolved: That the reports be received.

10. MOTIONS OF MEMBERS

There were no Motions from Members.

11. QUESTIONS TO THE MAYOR, CABINET MEMBERS AND COMMITTEE CHAIRS

Question 1:

Councillor Olszewski asked the Leader, in his opinion, what adverse impact a no-deal Brexit would have on the citizens of Newcastle-under-Lyme.

The Leader stated that his opinion was not relevant. However, it is the opinion of experts such as the operators of Calais and Dover ports and the Euro Tunnel that there will be no problem with keeping the ports open. This Council is leading the Brexit preparations in the Borough with the Head of Communications, Phil Jones as Lead Officer and Councillor Sweeney as Lead Member.

No problems were anticipated. The Council was working closely with partners such as the Staffordshire Chamber of Commerce in the event of a no-deal. There was a page on the Council's website offering advice.

Councillor Olszewski asked the Leader if he agreed with the Prime Minister, leaving the European Union at the end of October – even if it meant breaking the law.

The Leader stated that it was the Prime Minister's decision to make. There had been a lot of scaremongering about a no-deal Brexit and there were far worse things that could befall the Country such as a Corbyn government.

Question 2:

Councillor Parker asked the Portfolio Holder for Finance and Efficiency to confirm if the Audit of the Council's accounts had been completed.

Councillor Sweeney confirmed that this had been done.

Question 3:

Councillor Fear asked The Portfolio Holder for Finance and Efficiency how the Council was spending the money provided by the Government to prepare for Brexit on 31 October.

Councillor Sweeney advised that £17,400 had been used to fund Brexit workshops and these had proved very successful.

In addition, a joint social media project was being aimed at EU nationals advising of their position post Brexit.

Funds would continue to be monitored on how to put them to their best use.

Councillor Fear asked Councillor Sweeney to write to the government asking them to declare Brexit Day a Bank Holiday.

Councillor Sweeney agreed to do that.

Question 4:

Councillor Wright asked the Leader if any help could be given to the Cultural Squatters Café for Merrial Street who had been asked to vacate the premises by the landlord.

The Leader stated that he had been made aware of this two days ago and discussions had taken place as to what could be done. Some of the smaller vacant units owned by the Council may be suitable for a transitional period. The situation would be closely monitored so that they were not lost from the town centre.

Councillor Wright asked if there was anything that the Council could do to prevent private landlords giving short notice to vacate premises.

The Leader would raise this with the Council's Housing Team.

Question 5:

Councillor Robinson asked the Leader if Locality Action Partnership's (LAP's) would be sustainable without the administrative support of the Council.

The Leader advised that the LAP's knew that the Council's Locality Action Partnerships Coordinator, Irene Lee was retiring and that she would not be replaced. The Council wanted to support LAP's in a different way. They would be shadowed by a member of the Strategic team. The LAP's would be advised who their support officer would be. LAP's had their own bank account and Constitution. Support Staffordshire could be asked to give advice to LAP's

Councillor Robinson stated that the LAP's had achieved a great deal but felt that without administrative support, some would struggle.

Councillor Robinson praised Irene Lee for the work that she had done with the LAP's.

The Leader joined Councillor Robinson in praising Irene.

Question 6:

Councillor Robinson asked the Leader if any plans to distribute the Town Centre Fund in Kidsgrove would be distributed fairly.

The Leader stated that the publication of the prospectus was awaited and a meeting would be held with a government official shortly, which would hopefully set out the criteria for how the money could be spent.

The Leader would keep Members up to date on the progress.

Councillor Robinson asked that all Councillors be involved and that residents and community groups be given their say on how monies would be spent.

Question 7:

Councillor Northcott asked that thanks be placed on record to the former Head of Planning, Guy Benson who had recently retired.

Members acknowledged the work that he had done over the years and stated that he would be a hard act to follow. He had provided valuable advice in an honest and forthright manner and had been hardworking throughout.

Members wished him all the best for the future.

The Mayor stated that he would personally send a letter to Mr Benson, on behalf of Members, expressing their thanks.

A round of applause was given for Mr Benson.

12. RECEIPT OF PETITIONS

Councillor Robinson presented a petition in respect of Clough Hall Park seeking the reinstatement of the Park Warden, improved fencing and CCTV.

Councillor Robinson thanked Staffordshire Police for stepping up their presence and also, Council Officers' Natalie Noone and Robin Wiles for looking at solutions.

The petition was received.

13. STANDING ORDER 7 - URGENT BUSINESS

There was no urgent business.

Chair

Meeting concluded at 8.32 pm

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO COUNCIL

20 November 2019

Report Title: Clough Hall Park Petition

Submitted by: Sarah Moore – Partnership Manager, Joanne Halliday – Head of Housing, Assets and Regeneration and Roger Tait – Head of Operations

Portfolios: Community Safety and Wellbeing

Ward(s) affected: Talke and Butt Lane

Purpose of the Report

To report back to Members, Officers' feedback to the recent Clough Hall Park Petition requests.

Recommendation

- . To refer the petition to the Health and Well Being and Partnerships Scrutiny Committee for consideration

Reasons

The report has been written in response to a recent Public Petition to Full Council regarding perceived anti-social behaviour in Clough Hall Park.

1. Background

- 1.1 Over the summer period, a number of incidents involving young people and anti-social behaviour were reported to the Council and partners for further action at Clough Hall Park. These incidents ranged from low level anti-social behaviour, an assault, motorbike nuisance, arson and damage to a bin and other perceived nuisance behaviour. Unfortunately the majority of these incidents have not resulted in those involved being formally identified, making it very difficult for the Council and partners to take further enforcement action.

Local Councillors and community champions have been informed of the limitations to the Council's (and partners) use of powers and have been encouraged to report any further incidents or information and intelligence regarding those involved. The area has been added to the Police's patrol strategy, a portable CCTV camera has been installed as a temporary measure to try to capture some of the issues and a number of interventions have taken place with some young people being identified, where partners are working with the local High School to prevent and deter further incidents.

In the period April – September 2019 the Council received a total of 10 complaints regarding anti-social behaviour, 3 of these complaints were regarding a single incident.

In the period June – September 2019, Newcastle Neighbourhood Policing Team received 14 complaints regarding anti-social behaviour, which was reported to be a considerable increase to the previous quarter. On further investigation the increase was determined to be as a result of an incident connected to pupils at the school in June. At the time of writing the Council, Staffordshire Police and Staffordshire Fire and Rescue have received 1 complaint of anti-social behaviour in the location since 08/09/19, involving a motorbike.

2. **Issues**

2.1 **Overview of the Petition to Full Council**

A petition of 518 signatories was presented to Full Council in September by Cllr Robinson in respect of resident's concerns regarding anti-social behaviour at Clough Hall Park.

It makes requests to the Council in respect of:

1. Introduction of a Public Spaces Protection Order (PSPO) in the park
2. Installation of CCTV at the location
3. Improvement to boundary fencing at the location
4. Regular locking/unlocking of the park at night and after dark.

3. **Consideration of Petition requests**

3.1. **Introduction of Public Spaces Protection Order (PSPO)**

Public Spaces Protection Orders (PSPO) propose to deal with a particular nuisance in a particular area that is having a detrimental effect on the quality of life of the local community. It can prohibit certain things or require specific things to be done. An example of when a PSPO may be issued could be to help keep dogs under control within a public place such as a park. It may require that the dog is kept on a lead at all times and/or the dog is only allowed in certain areas. Alternatively, it may prohibit the consumption of alcohol in a specific place.

When deciding whether a PSPO should be issued at a location, the local authority must consider two things: firstly whether the behaviour is having a detrimental effect, or is likely to have this effect and secondly, whether the effect/likely effect of the activities is of a persistent nature making the behaviour unreasonable and rendering the order justified. This is decided by taking into account all available information including complaints received and the numbers of incidents over a period. If a PSPO is considered appropriate, a minimum 12 week consultation period is required before it can be authorised.

A PSPO can be made to apply to all people, or limited only to certain people aged 18 and over, and can be restricted to specific times in a specific location. Failure to comply with the order can result in a fine or a fixed penalty notice, which in the Borough is generally issued on the Council's behalf by a Police Officer.

Officers have considered the use of PSPOs in a number of locations, where there has been anti-social behaviour, involving young people and they are considered to be unfavourable because the penalty for a breach is financial, which in itself has not previously been a suitable or effective deterrent for young people aged under 18.

It is acknowledged that there are far more effective anti-social behaviour powers available for use by the Council, such as Community Protection Notices, which are used to ensure that parents of young people identified as being involved in anti-social behaviour, control their children's behaviour and therefore enforces the parental responsibility. The benefit of this power is that they can be used retrospectively and in conjunction with other sanctions, such as tenancy enforcement with a landlord and if not adhered to can progress to criminal sanctions and injunctions (as appropriate). Officers recommend that this is the preferred enforcement tool to use at the location because it is more efficient and effective with the cohort and issues identified at the location.

3.2. **Installation of CCTV**

Installation of CCTV at the location to increase surveillance could be considered but would not be a quick fix to any of the issues in the park at the current time. Officers have liaised with partners to fund portable cameras for use in hotspots areas, which are installed for a temporary period to monitor reported issues involving crime and disorder.

Officers are currently working closely with partners to progress an upgrade to the existing CCTV system in Newcastle town centre. This process has proved to be time consuming and costly to date. Partners have facilitated funding for the capital costs and Officers have explored options for future monitoring as a partnership arrangement with Stoke-on-Trent City Council, who have a purpose built CCTV centre set up.

Similarly, in order to seek to install permanent CCTV at the Clough Hall location, there would need to be considerable further investigation to explore the feasibility and suitability at the park, including;

- a survey by the colleagues from the Crime Prevention Team at Staffordshire Police to advise on most suitable options for surveillance and lighting at the location;
- establish if the required technical infrastructure is in place at the location to facilitate installation and whether appropriate electrics and media links are available (if not these would also need to be sourced and installed to enable the project to go ahead);
- if external funding can be identified to pay for the capital costs of the infrastructure and equipment installation;
- if revenue funding can be identified by the Council and/or its partners to cover the additional costs associated with monitoring and maintaining the equipment.

3.3. Improvement to boundary fencing

Enhancing the fencing from standard 6 foot park fencing to say 10 foot high fencing would have significant costs which are not currently included in the corporate capital programme. The benefits of increasing the fencing would have limited benefits as some of the incidents have occurred in the day time when the park is open. For the fencing to be effective in the evenings then the park would need to be locked and adequate surveillance in place.

The Assets Team at the Council have walked the full boundary of the park and could not see any fences down or broken. The only area that may appear a little damaged is to the rear of a small number of private houses, which is understood to be the responsibility of the owners / residents.

3.4. Regular locking/unlocking of the park

Locking and unlocking of parks and open spaces, including Clough Hall Park, used to be undertaken on a daily basis by the Park Attendant Service, alongside a number of other cleansing, maintenance and security duties. The locking and unlocking rota comprised around 30 sites across the Borough, with around 80 different gates and doors, and required a significant staff resource to complete it 7 days per week, 364 days per year.

The security benefits of locking parks at night are not considered to be particularly effective, as access can still be gained by those determined to do so, and Police colleagues have indicated concerns regarding gaining access for their officers when called to an incident, if the gates are locked.

The Park Attendant Service has been reviewed and restructured on 3 occasions since 2011, with the aim of making efficiency savings and refocusing it's work into high priority tasks. The locking and unlocking rota was reviewed in 2012 and ceased at this time, as it was considered to be non-productive and resource intensive. However, there was a proviso that short term locking and unlocking of identified sites could be accommodated if particular issues arose in response to community concerns.

When the subsequent 2 restructures took place, culminating in the 2017 review, the Park Attendant Service was reduced down to two attendants and therefore any capacity to carry out locking and unlocking was lost. No locking or unlocking has been carried out since this time with the remaining limited park attendant capacity being directed into inspection, cleansing and maintenance tasks. It is considered that the cost of reinstating capacity to lock and unlock parks would be prohibitive, with limited security benefit.

- 4 **Recommendations**
- 4.1 To refer the petition to the Health and Well Being and Partnerships Scrutiny Committee for consideration
5. **Legal and Statutory Implications**
- 5.1 The Council has a statutory duty to work in partnership to prevent crime and disorder in the Borough.
- 5.2 The Council owns and maintains the Clough Hall park facility and the Pavillion at the location.
6. **Equality Impact Assessment**
- 6.1 An Equality Impact Assessment has not been developed for this area of work.
7. **Financial and Resource Implications**
- 7.1 There are no specific additional financial implications or commitments required from the recommendations of this report.
8. **Major Risks**
- 8.1 There is a risk of reputational damage to the Council if it does not deliver its statutory duties lawfully and effectively.
9. **Sustainability and Climate Change Implications**
- 9.1 N/A
10. **Key Decision Information**
- 10.1 N/A
11. **Earlier Cabinet/Committee Resolutions**
- 11.1 N/A
12. **List of Appendices**
- 12.1 N/A
13. **Background Papers**
- 13.1 N/A

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE FULL COUNCIL

20 November 2019

Report Title: Review of Polling Districts and Polling Places 2019

Submitted by: Chief Executive

Portfolios: Corporate & Service Improvement, People & Partnerships

Ward(s) affected: All Wards

Purpose of the Report

The purpose of this report is to bring to Council the outcome of the consultation following the Review of Polling Districts and Polling Places which took place between 29 July and 19 September 2019.

Recommendation

It is recommended that Council approves the amendments to the polling districts and polling places set out in Appendix A to this report.

Reasons

Having carried out a Review of Polling District and Polling Places, a decision by the Council on that review is now required to ensure that polling districts and polling places remain beneficial to the electorate.

1. Background

- 1.1 A Review of the Polling Districts, Polling Places and Polling Stations has been carried out in the Parliamentary Constituencies in accordance with the Representation of the People Act 1983 (as amended by the Electoral Administration Act 2006).
- 1.2 The main purpose of the review is to ensure that all electors have such reasonable facilities for voting and that all polling stations are accessible to electors who are disabled. However, it should be noted that community buildings are becoming more difficult to find in some areas compared to previous years.
- 1.3 The Electoral Registration and Administration Act 2013 introduced a new timetable for the formal review of polling districts and places. This new timetable implemented the requirement to conduct a review of each polling district, polling place and polling station within each local authority area every five years.
- 1.4 Although there was a review recently due to the boundary changes that came into force for the May 2018 elections, the above changes to legislation required us to conduct another formal review between the period of 1 October 2018 and 31 January 2020.
- 1.5 Existing polling arrangements were assessed and the views of interested groups and individuals were invited. These included electors, political parties, Members of the Council, those organisations who cater for the specific needs of people with different disabilities and the Acting Returning Officer for Stoke North, Stone and Staffordshire Moorlands.
- 1.6 Guidance issued by the Electoral Commission stipulates how reviews should be conducted in four stages. The first stage requires the Council to give public notice of its intention to conduct the

review. The second requires the Council to review the existing polling arrangements to determine their suitability, or otherwise. The third stage requires the Council to consult widely. This includes local electors, interested groups and bodies, including political parties, elected Members and organisations experienced in assessing the needs of people with disabilities. The final stage relates to the consideration of proposals for changes to polling district boundaries and polling places by the Council, as these can require alterations to be made to the electoral register.

- 1.7 Any comments, suggestions and requests received were explored and those found to be achievable and in the best interests of the electors affected are outlined in the table below and, in further detail, in Appendix A.
- 1.8 Three submissions were received during the consultation period. Two submissions raised issues with the use of Co-op Academy Friarswood which is required to close on polling day for safeguarding reasons when voting takes place at the school. These submissions also offered the recommendation of alternative premises to use for future elections/referendums. In addition to this, a comment was also received encouraging the use of May Bank Infants School for future elections. Details of the submissions are set out at Appendix B to the report.

2. **Issues**

- 2.1 The location and accessibility of polling places has a direct effect on electors' ability to exercise their democratic right to vote.

3. **Proposal**

- 3.1 To take all submissions, representations and alternative places suggested into consideration and to amend and update existing polling districts.
- 3.2 Members are recommended to make the following changes for implementation:

WARD	PROPOSED CHANGES
Madeley & Betley: SLD	Proposed amendment to update and amend the polling district from SLD to SLC to follow alphabetically. No change to polling station.
Maer & Whitmore: SMC, SMD and SME	Proposed amendments to update and amend polling districts SMC, SMD and SME to follow alphabetically as SMB, SMC and SMD. No change to polling stations.
Westbury Park: NUC	Proposed amendments to update and amend polling district NUC to NUB to follow alphabetically. No change to polling stations.
Westlands: NWC, NWD, NWE, NWF and NWH	Proposed amendments to update and amend polling districts NWC, NWD, NWE, NWF and NWH to follow alphabetically as NWB, NWC, NWD, NWF and NWG.
Westlands: NWA and NWH - Co-op Academy Friarswood	Taking into consideration the two submissions received recommending the use of The Coppice over Co-op Academy Friarswood for future elections, it is recommended that this change is not implemented immediately and the location does not change due to potential issues of accessibility for electors to this site but the matter is deferred to a future review.
Wolstanton: NXE	Proposed amendments to update and amend polling district NXE to NXD to follow alphabetically. No change to polling stations.

4. **Reasons for Proposed Solution**

- 4.1 It is essential to designate polling places that are most beneficial to the electorate.
- 4.2 Members are also asked to note that the Council's software provider has advised officers make any necessary amendments in January 2020 so that the Register of Electors is not affected at the Polling Station on the day of the General Election.

5. **Options Considered**

- 5.1 Every local authority is required to complete a review, identifying designated polling places for each polling district. Legislation requires that the scheme is kept under review. As required by Section 27 of the Electoral Registration and Administration Act 2013 this report proposes a full review of the polling scheme.

6. **Legal and Statutory Implications**

- 6.1 The review complies with the Representation of the Peoples Act 1983 (as amended by the Electoral Administration Act 2006)
- 6.2 The recommendation is not at variance with the Human Rights Act 1998 and is unlikely to result in any adverse Human Rights Act implications. The recommendations are in line with relevant legal procedures prescribed by the Act and with guidance issued by the Home Office.

7. **Equality Impact Assessment**

- 7.1 The Council must seek to ensure that so far as is reasonable and practicable every polling place for which it is responsible is accessible to electors who are disabled Any amendments to the current polling districts, polling places and polling stations will take into account the provisions of the Equalities Act, Representation of People Act 1983 (as amended by the Electoral Administration Act 2006), and the Local Government and Public Involvement in Health Act 2007

8. **Financial and Resource Implications**

- 8.1 It should be noted that hire charges for many of the existing polling station venues may increase next year.

9. **Major Risks**

- 9.1 The Council is obliged to conduct a review of polling districts, polling places and polling stations on a regular basis and to undertake such Community Governance Reviews as are required to keep the electoral arrangements within its area up to date.
- 9.2 The Council must seek to ensure that all electors in a constituency in the local authority area have such reasonable facilities for voting as are practicable in the circumstances.

10. **Sustainability and Climate Change Implications**

There is no anticipated environmental impact associated with the recommendations in the report.

11. **Key Decision Information**

11.1 N/A

12. **Earlier Cabinet/Committee Resolutions**

N/A

13. **List of Appendices**

Appendix A – Schedule of Proposals following the Review of Polling Districts and Places 2019

Appendix B- Submissions received from the Polling Districts and Polling Place Review 2019

14. **Background Papers**

Sections 18C (1) of the Representation of the People Act 1983

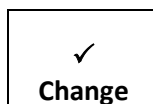
Section 16 of the Electoral Administration Act 2006

Electoral Commission Guidance on Review of polling districts, polling places and polling stations

REVIEW OF POLLING DISTRICT AND POLLING PLACES 2019

PROPOSED POLLING ARRANGEMENTS – NOVEMBER 2019

KEY:



Newcastle-under-Lyme Parliamentary Constituency
Staffordshire Moorlands Parliamentary Constituency (Part of)
Stoke-on-Trent North Parliamentary Constituency (Part of)
Stone Parliamentary Constituency (Part of)

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Audley						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NAA, NAB	Polling district	St James Church Hall	1937	2	2	No change
NAC	Polling district	Audley Methodist Church	1777	1	1	No change
NAD	Polling district	Audley Wood Lane Community Centre	851	1	1	No change
NAE, NAG	Polling district	Halmer End Methodist Church	1251	2	2	No change. NAG contains 1 property that will need to be kept separate as it is in a different county ward to the rest of the polling districts in the Audley ward.
NAF	Polling district	The Richard Heathcote C.P. School	775	1	1	No change
Total for Ward: AUDLEY			6591	7	7	

Acting Returning Officer's proposal:

No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Bradwell						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NBA	Polling district	Bradwell Community Education Centre	1844	1	1	No change
NBB	Polling district	Bradwell Methodist Mission Hall	1075	1	1	No change
NBC	Polling district	St Barnabas Church Hall	1842	1	1	No change
NBD	Polling district	Bradwell Lodge Community Centre	1185	1	1	No change
NBE	Polling district	Wolstanton United Reformed Church	693	1	1	No change
Total for Ward: BRADWELL			6639	5	5	

Acting Returning Officer's proposal:

No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Clayton						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NCA	Polling district	Clayton Sports Centre	1107	1	1	No change
NCB	Polling district	St James Church Hall	1157	1	1	No change
		Total for Ward: CLAYTON	2264	2	2	

Acting Returning Officer's proposal:
No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Crackley & Red Street						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NDA	Polling district	St Chads Church Hall	1291	1	1	No change
NDB	Polling district	Mobile Unit Co-Op	1486	1	1	No change
NDC, NDD	Polling district	Crackley Bank Primary School	1658	2	2	No change
Total for Ward: CRACKLEY & RED STREET			4435	4	4	

Acting Returning Officer's proposal:

No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Cross Heath						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NEA	Polling district	Ramsey Road Meeting Hall	1493	1	1	No change
NEB	Polling district	Cross Heath Methodist School Room	480	1	1	No change
NEC	Polling district	St Michael's Church Hall	1045	1	1	No change
NED	Polling district	Cross Heath Mobile Unit	995	1	1	No change
Total for Ward: CROSS HEATH			4013	4	4	

Acting Returning Officer's proposal:

No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Holditch & Chesterton						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NFA	Polling district	Meeting Hall, Kent Grove	520	1	1	No change
NFB	Polling district	Chesterton Community Centre	2420	1	1	No change
NFC	Polling district	Elim Pentecostal Church	1190	1	1	No change
Total for Ward: HOLDITCH & CHESTERTON			4130	3	3	

Acting Returning Officer's proposal:

No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Keele						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NGA	Polling district	Keele Village Hall	355	1	1	No change
NGB	Polling district	Keele Students Union Building	613	1	1	No change
Total for Ward: KEELE			968	2	2	

Acting Returning Officer's proposal:

No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Kidsgrove & Ravenscliffe						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
KHA	Polling district	Kidsgrove Central Youth Club	1182	1	1	No change
KHB, KHF	Polling district	Kidsgrove Town Hall	2565	2	2	No change
KHC	Polling district	Whitehill Methodist Community Church	1369	1	1	No change
KHD	Polling district	Kidsgrove Primary	354	1	1	No change
KHE (Harding's Wood)	Polling district	St Thomas' Church Hall	660	1	1	No change. The polling station is out of the ward boundary.
KHG	Polling district	Mobile Unit Play Area, Moreton Close	931	1	1	No change
Total for Ward: KIDSGROVE & RAVENSLIFFE			7061	6	6	

Acting Returning Officer's proposal:

No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Knutton						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NJA	Polling district	Knutton Ex-Servicemens' Club	1146	1	1	No change
NJB, NJC	Polling district	Knutton Community Centre	889	2	2	No change
Total for Ward: KNUTTON			2035	3	3	

Acting Returning Officer's proposal:
No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Loggerheads						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
SKA	Polling district	Oddfellows Hall	722	1	1	No change
SKB	Polling district	Hales and District Club	309	1	1	No change
SKC	Polling district	Zoe Pool School of Dance	2263	1	1	No change. The current electorate is 2263 which includes 435 postal voters. A review of the electorate will be made prior to each election as the Electoral Commission's guidance is that 2500 is the maximum number of voters which should be allocated to a polling station.
SKD	Polling district	Knighton Village Hall	315	1	1	No change
		Total for Ward: LOGGERHEADS	3609	4	4	

Acting Returning Officer's proposal:

No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Madeley & Betley						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NLA, NLB	Polling district	Betley Village Hall	829	2	2	No change to polling station. Two separate polling districts as two separate parishes.
NLC	Polling district	All Saints Church Vestry	181	1	1	No change
SLA	Polling district	The Function Room	732	1	1	No change
SLB	Polling district	The Madeley Centre	2535	1	1	No change
SLD	Polling district	Onneley Village Hall	113	1	1	✓ No change to polling station. Further amendments are required to update and amend the polling district from SLD to SLC.
Total for Ward: MADELEY & BETLEY			4390	6	6	

Acting Returning Officer's proposal:

✓ Proposed amendment to update and amend the polling district from SLD to SLC to follow alphabetically. No change to the polling stations.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Maer & Whitmore						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
SMA, SMC	Polling district	Whitmore Village Hall	1548	2	2	✓ No change to polling station. Further amendments are required to update and amend the polling district from SMC to SMB.
SMD	Polling district	Copeland Cottage	91	1	1	✓ No change to polling station. Further amendments are required to update and amend the polling district from SMD to SMC.
SME	Polling district	Maer Village Hall	409	1	1	✓ No change to polling station. Further amendments are required to update and amend the polling district from SME to SMD.
Total for Ward: MAER & WHITMORE			2048	4	4	

Acting Returning Officer's proposal:

✓ Proposed amendments to update and amend polling districts SMC, SMD and SME to follow alphabetically as SMB, SMC and SMD. No change to polling stations.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: May Bank						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NNA	Polling district	Mobile Unit at Wolstanton High School	771	1	1	No change
NNB, NNC, NND	Polling district	May Bank Infants School	4155	3	3	No change
NNE	Polling district	Meeting Hall, Highfield Grange	559	1	1	No change
NNF	Polling district	The Museum and Art Gallery	1073	1	1	No change
NNG	Polling district	Meeting Hall, Highfield Grange	146	1	1	No change
Total for Ward: MAY BANK			6704	7	7	

Acting Returning Officer's proposal:

No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Newchapel & Mow Cop						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
KOA	Polling district	Birchenwood Pavillion	1858	1	1	No change
MOA	Polling district	Mow Cop Community Hall	718	1	1	No change to polling station. In 2017, the polling district boundary was moved to follow Alder Hay Lane, this affected two properties which moved into polling district MOC and now vote at Thursfield Community Centre.
MOB	Polling district	Newchapel Methodist Church	854	1	1	No change
MOC	Polling district	Thursfield Community Centre	1208	1	1	No change
Total for Ward: NEWCHAPEL & MOW COP			4638	4	4	

Acting Returning Officer's proposal:

No change.

Appendix A- Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Silverdale						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NPA	Polling district	Sacred Heart Parish Room	599	1	1	No change
NPB	Polling district	Meeting Hall, The Brighton Sheltered Housing	578	1	1	No change
NPC	Polling district	Silverdale Cricket Club Pavilion	725	1	1	No change
NPD	Polling district	Kent's Lane Community Building	1284	1	1	No change
NPE	Polling district	Cornerstone Community Centre	1018	1	1	No change
Total for Ward: SILVERDALE			4204	5	5	

Acting Returning Officer's proposal:
No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Talke & Butt Lane						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
KRA	Polling district	Reginald Mitchell Primary School	1546	1	1	No change
KRB	Polling district	Meeting Hall, Hollins Grange	933	1	1	No change
KRC	Polling district	Meeting Hall, Hollinwood Close	1345	1	1	No change
KRD	Polling district	St Martins Church Hall	1530	1	1	No change
KRE	Polling district	Talke Pits Village Hall	1541	1	1	No change
Total for Ward: TALKE & BUTT LANE			6895	5	5	

Acting Returning Officer's proposal:

No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Thistleberry						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NSA	Polling district	Harriet Higgins Centre	1617	1	1	No change
NSB	Polling district	Whitfield Community Centre	638	1	1	No change
NSC	Polling district	Meeting Hall, Falkirk Grange	693	1	1	No change
NSD	Polling district	Newcastle Academy	878	1	1	No change
Total for Ward: THISTLEBERRY			3826	4	4	

Acting Returning Officer's proposal:

No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Town						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NTA, NTB	Polling district	Newcastle Athletic Club	705	2	2	No change
NTC	Polling district	St George's Church	700	1	1	No change
NTD	Polling district	Holy Trinity Scout Hut	1229	1	1	No change
NTE	Polling district	Scout Hall, off Mount Pleasant	514	1	1	No change
NTF	Polling district	Meeting Hall, Earls Court	309	1	1	No change
NTG	Polling district	Higherland Methodist Church Hall	304	1	1	No change
Total for Ward: TOWN			3761	7	7	

Acting Returning Officer's proposal:
No change.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Westbury Park & Northwood						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NUA	Polling district	Wye Road Community Centre	1553	1	1	No change
NUC	Polling district	Clayton Community Centre	2455	1	1	✓ No change to polling station. Further amendments are required to update and amend the polling district from NUC to NUB.
Total for Ward: WESTBURY PARK & NORTHWOOD			4008	2	2	

Acting Returning Officer's proposal:

✓ Proposed amendments to update and amend polling district NUC to NUB to follow alphabetically. No change to polling stations.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Westlands						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NWA, NWH	Polling district	Co-Op Academy Friarswood	1355	2	2	✓ No change to the polling station and representations deferred to a future review. Further amendments are required to update and amend the existing polling district from NWH to NWF.
NWC	Polling district	St Peter's Methodist Church Hall	1414	1	1	✓ No change to the polling station. Further amendments are required to update and amend the polling district from NWC to NWB.
NWD	Polling district	St Andrew's Church Hall	1058	1	1	✓ No change to the polling station. Further amendments are required to update and amend the polling district from NWD to NWC.
NWE	Polling district	Roe Lane Playing Fields	1472	1	1	✓ A polling station change for the European Parliamentary Election 2019. Further amendments are required to update and amend the polling district from NWE to NWD.
NWF	Polling district	Our Lady & St Werburgh's R C Church Hall	1218	1	1	✓ No change to the polling station. Further amendments are required to update and amend the polling district from NWF to NWE.
Total for Ward: WESTLANDS			6517	6	6	

Acting Returning Officer's proposal:

✓ Proposed amendments to update and amend polling districts NWC, NWD, NWE, NWF and NWH to follow alphabetically as

NWB, NWC, NWD, NWF and NWG. Taking into consideration the two submissions received recommending the use of The Coppice over Co-op Friarswood Academy for future elections, it is recommended that this change is not implemented and the location does not change due to potential issues of accessibility for electors to this site.

Appendix A - Schedule of Proposals following the Review of Polling Districts and Places 2019

WARD: Wolstanton						
Polling District	Polling Place	Existing Polling Station	Total Electorate	Existing Number of Polling Stations	Proposed Number of Polling Stations	Acting Returning Officer comments
NXA	Polling district	Meeting Hall, Porthill Green	1328	1	1	No change
NXB	Polling district	Wolstanton Methodist School Room	890	1	1	No change
NXC	Polling district	Porthill Park Cricket Club	777	1	1	No change
NXE	Polling district	Childrens Centre Room, Ellison Primary School	1701	1	1	✓ No change to the polling station. Further amendments are required to update and amend the polling station from NXE to NXD.
Total for Ward: WOLSTANTON			4696	4	4	

Acting Returning Officer's proposal:

✓ Proposed amendments to update and amend polling district NXE to NXD to follow alphabetically. No change to the polling stations.

Appendix B – Submissions received from the Polling District and Polling Place Review 2019

WARD: May Bank		
Polling District	Existing Polling Station	Submissions Received
NNB, NNC, NND	May Bank Infants School Submission from: Timothy James Evans	<p>Which ward does your submission relate to? May Bank</p> <p>Which polling station(s) does your submission relate to? May Bank Infants School</p> <p>Is the polling station easy to find? (Please tell us the name and address of your polling station.) Yes</p> <p>Do you consider that the building is suitable to be used for voting purposes? Yes</p> <p>Do you have a disability? No</p> <p>Do you think there is a more suitable building within the same polling district? If so, please provide details here. No</p>

WARD: Westlands		
Polling District	Existing Polling Station	Submissions Received
NWA and NWH	<p>Co-op Academy Friarswood</p> <p>Submission from: Mrs Lindsey Wilmer Headteacher, Co-op Academy Friarswood</p>	<p>I would just like to email you regarding the continuing use of Co-op Academy Friarswood as a polling station.</p> <p>Due to safeguarding reasons, I have to close the school to children and staff each time the school is used. This creates a lot of frustration and anger with parents due to them having to take time off work or trying to find alternative childcare. On several occasions, we have used the polling day as an INSET day, but we can only do this if we haven't used our INSET days for specific training for staff.</p> <p>Over the last 20+ years, Friarswood has been used as a polling station. Each time this has caused issues within the school. Please could I ask that you consider another location for any further stations.</p> <p>As I have shown and explained to Chris Goodall, The Coppice have a centre behind Friarswood. No children are using the site and in the past 5 or 6 years, only a handful of children have used it. The Coppice main building / school has had extensive building work at their school so if children were ever to use the building behind Friarswood, they could easily be transferred to the main school for the day. There is a car park, staff room and toilets in the building and using this as a polling station would not cause any issues to the education of children and their parents.</p> <p>Please could I ask you to consider this request carefully as I really do believe that Friarswood has given more than its fair share of time to the electoral services. Surely, it's time for another venue to be found which wouldn't cause as much distress, anger and frustration to so many children and families.</p> <p>Many thanks for taking your time to read this.</p>
NWA and NWH	<p>Co-op Academy Friarswood</p> <p>Mark Holland, Councillor, Westlands Ward</p>	<p>I am grateful as always for the opportunity to talk about polling places.</p> <p>Polling districts NWA and NWH in the Westlands ward are served by a polling station at Friarswood Primary School (Now the Co-operative Academy Friarswood). As I have said before, it is a poor choice because the school cannot give over part of its estate on polling days without completely closing to pupils. It is not possible for the school effectively to safeguard children on site when the gate is open to electors.</p> <p>I would be grateful if alternatives could be considered. Why not The Coppice Academy? It's no distance at all</p>

		<p>from the current polling station and the authority can use the same statutory powers to expropriate a room at the school on polling days as it does Friarswood.</p> <p>Full disclosure: I am on the governing body at Friarswood. Many of the residents who complain to me about this are both electors served by the polling station in question and parents of pupils at the school: it is our own electors that we are disrupting here.</p>
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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO FULL COUNCIL

20 November 2019

1. **Report Title** Appointment of Senior Officers
Submitted by: Chief Executive
Portfolios: Corporate and Service Improvement, People & Partnerships
Ward(s) affected: All

Purpose of the Report

To ask members to note the appointment of those senior officers set out at paragraph 3. 4 of the report.

Recommendation

That Members note the decision of the Councils Appointments Sub Committee to appoint those officers set out at paragraph 3. 4 of this report and welcomes them to the Council.

Reasons

To advise members of the recent decisions of the Councils Appointment's Sub Committee to make a number of senior appointments.

1. **Background**

- 1.1 Members will be aware that there have been a number of vacancies to the Senior Officer team for some time and the Council has appointed Interim Officers to several key roles in the meantime. An exercise to recruit to these roles on a full time basis has been underway and members of all four political parties have been involved in the recruitment process.
- 1.2 The Council's Appointments Sub-Committee acts as an appointment panel for both Executive Directors and Heads of Service. It has met on a number of occasions recently to interview for several senior roles and this report updates members on the position.

2. **Issues**

- 2.1 Members will be aware that a number of senior roles within the Council are currently being discharged on an interim basis and there is a need to make permanent appointments to these roles.

3. **Proposal**

- 3.1 The Appointments Panel also met on the following occasions and recommended that the following individuals are appointed to the posts set out below:

- 30th September 2019 Head of People & Organisational Development - Georgina Evans

- 4th October 2019 Executive Director – Commercial Development & Economic Growth - Simon McEneny
- 7th October 2019 Head of Planning & Development - Shawn Fleet

3.2 Arrangements are also ongoing to finalise the appointment of the Head of Legal and Governance who will also be the Council's Monitoring Officer.

3.3 The post of Executive Director – Resources & Support Services who will also act as the Council's s151 Officer is the last post to be recruited to and the process is ongoing.

3.4 There will shortly be the opportunity for members to meet with the successful candidates at a "meet and greet" session and details will be circulated to all members.

4. **Reasons for Proposed Solution**

4.1 To make a number of senior appointments to the Councils establishment

5. **Options Considered**

5.1 It would have been an option to continue with interim support for a longer period but it is more cost effective and provides greater stability to the organisation to make permanent appointments to vacant senior positions wherever possible.

6. **Legal and Statutory Implications**

6.1 There are no additional legal implications other than those set out in the report.

7. **Equality Impact Assessment**

7.1 No implications.

8. **Financial and Resource Implications**

8.1 Budgetary provision has been made for the appointments.

9. **Major Risks**

9.1 The Council needs to ensure that it has senior officers in place to comply with all necessary legal requirements and to demonstrate good governance.

10. **Sustainability and Climate Change Implications**

10.1 No implications

11. **Key Decision Information**

11.1 This is not a key decision which requires inclusion in the Forward Plan

12. **Earlier Cabinet/ Committee Resolutions**

12.1 None directly relevant to this matter.

13. **List of Appendices**

13.1 Not applicable

14. **Background Papers**

14.1 There are no background papers for consideration/inclusion.

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL
EXECUTIVE MANAGEMENT'S REPORT TO THE
COUNCIL

20 November 2019

1. **Report Title** **Review and Update of the Borough Council of Newcastle-under-Lyme's Council and Committee Procedure Rules**

Submitted by: **Interim Head of Legal & Monitoring Officer- Caroline Elwood**

Portfolio: **Corporate and Service Improvement / Finance and Resources**

Ward(s) affected: **All**

Purpose of the Report

The report summarises proposed changes to the Council and Committee Procedure Rules.

Recommendations

That Council approves the amendments to the Council and Committee Procedure Rules as set out in Appendix A to the report.

Reasons

The Council and Committee Procedure Rules form part of the Council's Constitution (at Appendices 7 & 9) and deal with the rules, legal requirements and processes and procedures which govern full Council and Committees. The review updates the Procedure Rules where legal requirements have changed since the Rules were last reviewed and adds additional clauses and wording where clarification is helpful.

1. **Background**

- 1.1 The Council Procedure Rules and Committee Procedure Rules are currently at Appendix 7 and 9 of the Constitution. Neither has been updated for some time and this report recommends amalgamating the two documents into one and making a number of revisions.

2. **Issues**

- 2.1 The Council should regularly review its Constitution and update the provisions. The proposed amendments to the Procedure Rules take into account new legislative provisions eg the requirement to have a recorded vote on the Budget and the right to record meetings providing there is no disruption to the meeting. The Rules also adds a number of additional clauses to clarify issues and cover areas where the existing Constitution is silent. There is a new section on the Rules of Debate which are currently set out at Annex 2 as a diagram.
- 2.2 Annex 1 and Annex 3 have not been amended.

3. **Proposal**

- 3.1 A summary of the changes proposed is set out below. The comments of the Constitution & Member Support Working Group are included in the final column.

New Rule	Content	Former Rule & Justification	WG of 3 July Comment
1. Council Meetings	Amends the current wording dealing with the legal requirement to convene meetings & send the summons to members. Deletes the section on Special Meetings which is now dealt with at Rule 4	Formerly Rule 1	Noted
2. Annual Council	Sets out clearly the formal business required to be transacted legally at Annual Council	Formerly Rule 2 New Rule – expands on what is necessary at Annual Council	Requested amendment to clarify Outside Body appointments every 4 years
3. Ordinary Council Meetings	Sets out the order of business at an ordinary Council meeting	New Rule Details added for clarity	Agreed to delete section on consideration of business adjourned from last meeting
4. Special/ Extraordinary Meetings	Sets out in one rule who may call a special/ extraordinary meeting of the Council	Formerly Rule 1	Agreed to clarify “any 5 members” can require C Ex to convene meeting.
5. Quorum	Minor redraft of the minimum number required to be quorate & the process to be followed.	Formerly Rule 4	Noted
6. What the Council can decide	Refers to Part 3 for list of matters Council can decide.	Formerly Rule 5 Original wording retained with minor word change	Noted

7. Order of Business	Provides Business will be dealt with in agenda order unless meeting decides otherwise.	Formerly Rule 6 Original wording retained with minor word change	Noted
8. Urgent Business	Sets out when urgent business may be considered.	Formerly Rule 7 Original wording retained	Noted
9. Chair for the Meeting	States the Mayor will chair the meeting & in his/her absence The Deputy Mayor or another elected member if the deputy is unavailable.	Formerly Rule 2.2 Original wording retained	Noted
10. Confirmation of Minutes	Sets out the requirement to approve minutes. Rewords the section on extraordinary meetings & deletes section which states all cabinet and committee minutes will be reported to Council.	Formerly Rule 8 Wording amended to simplify the section on extraordinary meetings. No longer a requirement to report all minutes to Council as they are now all online	Noted
11. Matters for Decision by Council	Requires matters to be listed on the agenda (apart from limited exceptions) and sets out who may move and second agenda items	Formerly Rule 9 Largely original wording – amended slightly for clarity	Agreed to leave option of moving by an officer as currently drafted - even though may be rare
12. Motions moved without notice	Sets out the circumstances when a motion may be moved without notice. The section on closure motions is moved to Rule 15	Formerly Rule 10	Amended item 12. 1.f to delete reference to “starred minutes” and consequent resolutions
13. Questions at Council Meetings	Largely original wording but members asked to lodge questions 48 hours not 24 hours in advance to facilitate the research of answers and there is an added proposal that	Formerly Rule 11. Largely original wording but members may have views on proposed increased deadline to submit questions	Agreed NOT to amend notice period to 48 hours but to leave at 24 hours. Agreed to circulate

		<p>questions should be circulated on the evening.</p> <p>Leader and Deputy Leader added as named individuals.</p> <p>As before there is no requirement to answer a question – but this now links to the response being confidential within the definition in Access to Information Procedure Rules which would be a narrower reason to refuse to answer.</p>	<p>prior to the meeting & when members may decline to give an answer.</p>	<p>questions on the evening.</p> <p>Agreed to add Leader & Deputy Leader to the list and to keep the definition not to answer within Access to Info Procedure Rules.</p> <p>Agreed delete Member may decline to answer a supplementary question.</p>
14. Notices of Motion	of	<p>Summarises how Notices of Motion can be submitted, extends the current definition of what a NoM must relate to & provides the Mayor may exclude any which are vexatious, abusive or otherwise inappropriate.</p>	<p>Formerly Rule 14</p> <p>Largely original wording but adds new definition section & power of Mayor to exclude inappropriately worded NoM's.</p> <p>Nb The WG may wish to review these amendments?</p>	<p>Approved definition of a relevant NoM and agreed Mayor acting on advice of CEx could exclude inappropriate NoM's</p>
15. Rules Debate	of	<p>New section which sets out the rules of debate which are currently referred to in annex 2.</p> <p>New flow chart drafted to reflect the rules</p>	<p>Formerly rule 13 & Annex 2</p> <p>Updated to set out the requirements in more detail in the Rules as well as in annex 2.</p>	<p>Agreed</p>
16. Changing an earlier resolution	an	<p>Sets out when a resolution of Council passed in the last 6 months may be changed</p>	<p>Formerly Rule 14</p> <p>Original wording retained –only cross references updated</p>	<p>Noted</p>
17. Voting		<p>Sets out how member vote and recorded votes.</p> <p>Now adds legal requirement to have a recorded vote at Budget Meetings.</p>	<p>Formerly Rule 15</p> <p>Wording amended following legislative changes</p>	<p>Noted</p> <p>Agreed to make clear R17.6 was a legal requirement</p>

18. Duration of Meeting	Provides any meeting which has sat continuously for 3 hours will stand adjourned to a date to be agreed unless the majority of members present resolve to continue.	Formerly Rule 16 Wording largely unchanged	Agreed the Mayor would agree the date of any adjournment
19. Public Access to Meetings	Sets out right of public to attend meetings in accordance with the Access to Information Procedure Rules at Appendix 11	Formerly Rule 17 Original wording retained	Noted
20. Petitions	Refers to the Council's Petition Scheme at Appendix 18	Formerly Rule 18 Original wording retained	Noted
21. Recording & Social Media	Updated provision on recording & filming as new legislation now permits this, unless it is disruptive.	Formerly Rule 19 Wording amended following legislative changes	Noted
22. Disorderly Conduct & Disturbance	Very minor amendments to the section which deals with on disorderly conduct by Members & the public and the right of the Mayor to clear the room and adjourn the meeting.	Formerly Rule 20 Wording largely unchanged.	Noted
23. Records of Attendance	Altered current requirement for members to sign an attendance sheet to state the minutes will record all members present.	Formerly Rule 21 Updated as Attendance sheets are not always used	Noted
24. Personnel Matters	Sets out various HR and staffing matters. Wording unchanged.	Formerly Rule 22 Original wording retained	Agreed word change to refer to approved policies &

			procedures
25. Declarations of Interest	Re- draft of existing provision regarding declaration of interests. Now refers to DPI s etc and quotes from code	Formerly Rule 23 Updated to reflect the requirements of the current Member Code of Conduct	Noted but Agreed to ask Standards Committee to review wording of Member Code of Conduct as currently not v clear
26. Suspension, Variation & Revocation of the Rules of Procedure	Sets out how and when the Council may suspend the procedure rules. Certain rules are required by legislation and may not be suspended (ie minutes of meetings/ recording of votes/ votes at budget meetings & recording & social media)	Formerly R24 Updated to reflect recent legislative changes so that certain rules may not be suspended	Agreed
27. Confidentiality	Sets out the requirements to respect confidentiality of information within reports and cross references to Code of Conduct. Updated to refer to Chief Executive& not Head of Business Improvement	Formerly R25 Updated to reflect current management structure	Noted
28. Rules of Procedure to be given to Members	Amended to provide all members have a link to the Constitution & not a hard copy with regular updates.	Formerly Rule 26 Updated to reflect current practice	Noted
29. Interpretation of the Rules of Procedure	Provides the ruling of the Mayor or Chair of the meeting may not be challenged.	Formerly Rule 27 Original wording retained	Noted
30. Application to the Committee	Applies the rules to committees and sets out	Formerly Appendix 9 Separate Procedure	Agreed to add to one document

Procedure Rules.	rules for substitutes	Rules Committees amalgamated.	for now	
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A copy of the Council Procedure Rules is appended to this report.

4. **Reasons for Proposed Solution**

- 4.1 To update the current rules to reflect changes in legislative requirements since the last review and to clarify procedural requirements, particularly in relation to the Rules for Debate in full Council.

5. **Options Considered**

- 5.1 There is an option to do nothing but this would mean continuing to work with Rules which are partially out of date which is unhelpful and, especially where the legal position has changed, this should be reflected in the Rules.

6. **Legal and Statutory Implications**

- 6.1 All local authorities are required to have a written Constitution which must be kept under regular review and publicised. Any amendments to the Constitution require the approval of full Council.

7. **Equality Impact Assessment**

- 7.1 Where any equality impact has been identified it has been addressed.

8. **Financial and Resource Implications**

- 8.1 No significant additional resources will be required in relation to the recommendations.

9. **Major Risks**

- 9.1 That the Council and Committee Procedure Rules do not reflect up to date legal requirements and /or best practice resulting in challenge to Council decisions and/or reputational damage.

10. **Sustainability and Climate Change Implications**

- 10.1 Whilst sustainability and climate change implications are considerations in a range of procurement exercises, there are no direct implications for the Council and Committee Procedure Rules

11. **Key Decision Information**

- 11.1 This is not a key decision which requires inclusion on the Cabinet Notice of Decisions/ Forward Plan.

13. **Earlier Cabinet/Committee Resolutions**

The previous meeting of the Working Group in May requested a review of the Council and Committee Procedure Rules. The section dealing with Rules of Debate was deferred at the meeting on 3 July 2019.

14. **List of Appendices**

- 14.1 A copy of the Council and Committee Procedure Rules is attached at Appendix A to this report.

15. **Background Papers**

- 15.1 There are no background papers for consideration/inclusion.

APPENDIX 7

COUNCIL & COMMITTEE PROCEDURE RULES

- 1. Council Meetings**
- 2. Annual Council**
- 3. Ordinary Council Meetings**
- 4. Special or Extraordinary Meetings**
- 5. Quorum**
- 6. What the Council can decide**
- 7. Order of Business**
- 8. Urgent Business**
- 9. Chair for the Meeting**
- 10. Confirmation of Minutes**
- 11. Matters for Decision by Council**
- 12. Motions moved without Notice**
- 13. Questions at Council Meetings**
- 14. Notices of Motion**
- 15. Rules of Debate**
- 16. Changing an Earlier Resolution**
- 17. Voting**
- 18. Duration of Meeting**
- 19. Public Access to Meetings**
- 20. Petitions**
- 21. Recording and Social Media**
- 22. Disorderly Conduct and Disturbance**

- 23. **Records of Attendance**
- 24. **Personnel Matters**
- 25. **Declarations of Interest**
- 26. **Suspension, Variation and Revocation of the Rules of Procedure**
- 27. **Confidentiality**
- 28. **Rules of Procedure to be given to Members**
- 29. **Interpretation of the Rules of Procedure**
- 30. **Rules of Procedure to Apply to Committees**
- 31. **Quorum for Committees**
- 32. **Chair of Committees**
- 33. **Substitutes**

1. Council Meetings

- 1.1 The Council will decide when its meetings will take place. Details will be contained in a calendar of meetings which will be approved by the Council.
- 1.2 Council Meetings will normally be held at the Council Offices at Castle House, Newcastle-under-Lyme at 7pm. The Mayor, or the Council, can agree to hold a meeting at a different place or time. Prayers will usually be held shortly before the commencement of the meeting.
- 1.3 At least 5 clear working days before a meeting, a summons to attend specifying the time, date, place and business of the meeting will be provided to Members together with the reports on the agenda. The summons will be delivered in writing, electronically or sent by post to each member at his/her usual place of residence. Failure to summons any Member will not affect the validity of a meeting.
- 1.4 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules (see Appendix 11).
- 1.5 Before the start and at the end of each meeting, Members and officers will stand or sit and indicate respect whilst the Mayor and the Deputy Mayor enter and leave the room.

2. Annual Council

- 2.1 The Annual Meeting of the Council will usually be held in May to agree to:
 - a. Elect a person to preside at the meeting if the Mayor is not present
 - b. Elect the Mayor
 - c. Elect the Deputy Mayor
 - d. Approve the minutes of the last ordinary meeting of the Council
 - e. When the meeting is taking place in the year of whole Council elections:
 - i. Elect the Leader of the Council for a four year term of office
 - ii. Receive nominations and appoint members to serve on Outside Bodies for a four year term of office (unless the appointment has been delegated by the Council or is exercisable by the Cabinet)
 - f. Receive the names of the Deputy Leader and members of the Cabinet appointed by the Leader (see Cabinet Procedure Rules Appendix 8)
 - g. Appoint at least one Scrutiny Committee
 - h. Decide which other committees to establish and agree their size and Terms of Reference
 - i. Agree the scheme of delegation (excluding any executive delegations which the Leader has responsibility for)

- j. Determine the allocation of seats to political groups in accordance with the political balance rules under the Local Government & Housing Act 1989 (see annex 1 to these Rules)
- k. Elect the Chairs and Vice Chairs of all Committees (excluding ad hoc committees)
- l. Receive nominations and appoint members to serve on each Committee
- m. Agree, if necessary, any changes to the Constitution
- n. Approve a calendar of ordinary meetings of the Council
- o. Consider any other business set out in the summons for the meeting

3. Ordinary Council Meetings

3.1 Ordinary Meetings will take place in accordance with the approved calendar of meetings.

3.2 Ordinary Meetings of the Council will:

- a. Elect a person to preside if both the Mayor and Deputy Mayor are both absent (Rule 9)
- b. Receive any declarations of interest from members (Rule 25)
- c. Approve as a correct record the minutes of the last meeting (Rule 10)
- d. Receive any announcements from the Mayor
- e. Note the names of any changes to the Deputy Leader and members of the Cabinet appointed by the Leader since the last Council Meeting
- f. (As necessary) To appoint or remove the Leader of the Council, Chairs or Vice Chairs of Committees
- g. Receive the statement of the Leader of the Council
- h. Receive Reports of the Chairs of the Scrutiny Committees & Regulatory Committees
- i. Appoint to any vacancies arising in the position of Chair or Vice Chair of any committee
- j. Members Questions under Rule 13
- k. Reports (if any) of the Chief Executive, Monitoring Officer or s 151 Officer
- l. Petitions presented under Rule 20
- m. Notices of Motion under Rule 14
- n. Consider any business set out in the summons for the meeting

- o. To appoint to any vacancies which may have arisen on Outside Bodies

4. Special or Extraordinary Council Meetings

4.1 A special or extraordinary Council meeting may be called by:

- a. Resolution of the Council
- b. The Mayor
- c. The Chief Executive or Monitoring Officer
- d. Any 5 members of the Council notifying the Mayor in writing of their request.

If the Mayor declines to do so then the 5 members can require the Chief Executive to convene the meeting.

4.2 Any request made under paragraph 4.1 must specify the particular item(s) of business for which the extraordinary meeting is to be called.

4.2 The meeting may only consider those specific item(s) set out in the summons for the meeting.

5. Quorum

No business will be dealt with at a Council meeting if there are fewer than 15 Councillors present. Where the meeting has started, and the number of Councillors present reduces to less than 15, the Mayor will adjourn the meeting. Where the Mayor does not give a date and/or time to resume the meeting, all business not completed will be considered at the next meeting.

6. What the Council can decide

The Council will decide such matters as required by the law, and those matters set out in Part 3 of this Constitution.

7. Order of Business

Business will be dealt with in the order in which it is set out in the agenda unless the Council decides otherwise.

8. Urgent Business

Business, including communications or reports falling within the terms of reference of a non-Executive committee, cannot be dealt with at a Council meeting unless it is included in the summons or unless the Mayor has agreed that it is urgent and cannot wait until the next Council meeting or the next meeting of the appropriate committee. The Mayor must give the reasons for urgency, which must be recorded in the minutes of the meeting.

9. Chair for the Meeting

The Mayor of the Council, or in his absence the Deputy Mayor (who will have the same powers and duties as the Mayor), will preside at meetings of the Council. Where both the Mayor and Deputy Mayor are absent, the Council will appoint another

Member, other than a Member of the Cabinet, to chair the meeting, who will have the same powers and duties as the Mayor.

10. Confirmation of Minutes

- 10.1 Minutes of the last Council meeting must be confirmed at the next ordinary meeting or at the annual meeting of the Council.
- 10.2 Only matters relating to the accuracy of the minutes can be raised, which must be done by way of a proposal moved, seconded and voted upon. If there are no issues raised, or once any proposal has been dealt with, the Mayor will sign the minutes.
- 10.3 The minutes of the preceding Council meeting will not be submitted to an Extraordinary Meeting of the Council for approval but will be submitted to the next Ordinary Meeting. Note: this is a rule required by law.

11. Matters for Decision by the Council

- 11.1 All matters for decision by the Council (except any notices of motion which may be moved without notice under Procedure Rule 12 and any urgent items under Procedure Rule 8) must be included with the agenda.
- 11.2 When the item is reached on the agenda, the appropriate Cabinet Member or the Chair of the relevant committee, or officer will, where appropriate, move the recommendation or advice of the Cabinet or committee, or endorsement of a Cabinet or a committee decision. Another Member may second the motion and may reserve the right to speak until later in the debate.

12. Motions Moved Without Notice

A Member may move any of the following motions and amendments without giving notice:

- 12.1
 - a. Appointment of a Chair of the meeting
 - b. Motions relating to the accuracy of the minutes
 - c. To change the order business on the agenda
 - d. That a matter be referred to the Cabinet or a committee or referred back to the originating body for further consideration
 - e. That a committee be appointed or a person be appointed to a committee, a scrutiny panel or other body
 - f. Adoption of minutes, reports and recommendations of Cabinet, committees or officers
 - g. That leave is given to withdraw a motion
 - h. Extending the time limit for speeches under Rule 15.3
 - i. Amendments to motions
 - j. Authorising the sealing of documents

- k. Suspending these Rules of Procedure in accordance with Procedure Rule 26
- l. Motion to exclude the public from the meeting in accordance with the Access to Information Procedure Rules (see Appendix 11)
- m. That a Member named by the Mayor under Rule 22 for disorderly conduct may not speak or must leave the meeting
- n. Giving consent of the Council where the consent of the Council is required by the Constitution

13. Questions at Council Meetings

- 13.1 Members of the Council may ask the Mayor, the Leader/ Deputy Leader, the appropriate Cabinet Member or the Chair of a committee any question about a matter which the Council, the Cabinet or the committee has powers, duties or responsibilities.
- 13.2 Questions, other than those on a minute appearing on the Council agenda, must be sent in writing to the Chief Executive at least 24 hours before the meeting. A list of questions received will be circulated to those members present at the meeting.
- 13.3 The Mayor may agree to take urgent questions where he/she considers that it has not been possible for a Member to give the required notice, provided that a copy of the question is given to the Chief Executive before the meeting starts.
- 13.4 Questions will be asked and answered without discussion. In replying, the Member responding will use their reasonable endeavours to address the matters raised in the question. The Member responding may:
 - a. give a direct verbal answer
 - b. where the information is published, reply by reference to that publication
 - c. reply by written answer after the meeting with a copy to all members of the Council
 - d. refer the question to an appropriate committee or to the Cabinet
 - e. decline to answer where information is confidential within the categories to the Access Information Procedure Rules (Appendix 11)
- 13.5 Following the answer to each question, the questioner may ask a concise and focused supplementary question which relates to the subject matter of the initial question. The Mayor may choose to disallow a supplementary question if, in his/her opinion, it is inappropriate or unduly lengthy.
- 13.6 Where a question submitted under this Procedure Rule relates to a matter that appears on the agenda for that meeting, the question will be put and answered in accordance with this Procedure Rule, at the start of the consideration of that matter.

14. Notices of Motion

- 14.1 A notice of motion must relate to matters for which the Council has responsibility, or which affect its area or those who live or work within the Borough.
- 14.2 A motion not listed in Procedure Rule 12 must be in writing, signed by the Member giving it and delivered to the office of the Chief Executive at least ten clear days (that is, not counting the day of delivery or the day of the meeting) before the meeting.
- 14.3 The Chief Executive will set out in the summons for every meeting of the Council all motions of which notice has been given, in the order in which they have been received, unless the Member has, in writing, either withdrawn it or stated a wish to move it at a later meeting
- 14.4 If a motion set out in the summons is not moved and seconded at the meeting, it will be treated as withdrawn and may not be moved without fresh notice
- 14.5 If the subject matter of any motion comes within the terms of reference of any committee or committees it will, upon being moved and seconded, stand referred without discussion to that committee or committees (or to such other committee as the Council may determine) for consideration and report. However, the Mayor may allow the motion to be dealt with at the meeting at which it is brought forward if he/she considers it would be convenient and helpful to the Council to do so.
- 14.6 The Member who has moved the motion has the right to attend the meeting(s) of the committee(s) to which the motion is referred and to explain the motion.
- 14.7 The Mayor, acting on the advice of the Chief Executive, may exclude from the agenda any Notice of Motion which he/she considers to be out of order for any reason, including Notices of Motion which are considered to be vexatious, abusive or otherwise inappropriate.

15. Rules of Debate

15.1 No speeches until Motion seconded

A motion or amendment may not be discussed unless it has been both proposed and seconded. When seconding a Motion or Amendment, a member may reserve his/her speech until later in the debate.

15.2 Content and length of speeches

All speakers must address the issue under debate. No speech may exceed 5 minutes unless the Mayor grants an extension.

15.3 When a Member may speak again

A member who has spoken once on a motion may not speak again while it is being debated, except:

- a. To speak once on an amendment moved by another member;

- b. To move a further amendment if the motion has been amended since he/she last spoke;
- c. If his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- d. In exercise of a right of reply (rule 15.8)
- e. On a point of order or personal explanation (rule 15.11)

15.4 Amendments to Motions

An Amendment to a motion must be relevant to the motion, and may either be:

- a. To leave out words;
- b. To leave out words and insert or add others;
- c. To insert or add words.

as long as the effect of the amendment is not to negate the motion or to introduce a new proposal.

15.5 Number of Amendments

Only one amendment may be moved and discussed at any one time and no further amendments may be moved until the amendment under discussion has been disposed of.

The Mayor may, however, permit 2 or more amendments to be discussed (but not voted upon) together if this would facilitate the proper conduct of the Council's business.

15.6 Further Amendments

If an amendment is lost, a further amendment to the original motion may be moved and seconded.

If an amendment is carried then the Motion as amended will become the motion upon which any further amendments may be moved.

15.7 Alteration or Withdrawal of Motion

An amendment or motion may be altered or withdrawn by the proposer with the consent of the seconder and of the meeting, which will be signified without discussion.

15.8 Right of Reply on Motion & Amendments

The proposer of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

Where an amendment has been moved, the proposer of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak during the debate on the amendment.

The mover of the amendment has the right of reply at the end of the debate on the amendment immediately before any reply by the mover of the original motion.

15.9 Motions which may be moved during Debate

When a motion or amendment is under debate no other motion may be moved, except:

- a. To withdraw or amend the motion
- b. To proceed to the next business
- c. That the vote be taken or the question now be put
- d. To adjourn the debate or meeting
- e. To exclude the press or public
- f. Not to hear a member further or exclude them from the meeting

15.10 Closure Motions

The following Closure motions may be moved and seconded, without comment, at the end of a speech of another member and unless the Mayor considers there has been insufficient debate he/she will immediately put the motion to the vote:

- a. To Proceed to the Next Business on the Agenda
- b. That the Vote be taken or the Question be now Put
- c. That the debate or the meeting will be adjourned

In the case of a motion under (b) then the mover of the original motion will have the Right of Reply if the closure motion is passed

15.11 Point of Order or Personal Explanation

The debate may be interrupted by a member rising to his or her feet either:

- a. To seek the Mayor's interpretation of these rules or a statutory provision (a point of order). The member must state the rule or statutory provision and the way in which he/she considers it has been broken.
- b. To give a short personal explanation of something he/she has already said (a point of personal explanation). A personal explanation may only relate to some material part of an earlier speech by the member which appears to have been misunderstood in the present debate.

The ruling of the Mayor on the admissibility of a personal explanation or point of order will be final.

15.12 Respect for Chair

When the Mayor stands or otherwise interjects during a debate, any member speaking at the time must stop, and all others present at the meeting must then be silent.

Note: A Flowchart setting out the Rules of Debate to be followed at Council Meetings is set out at Annex 2.

16. Changing an Earlier Resolution

16.1 Subject to Rule 16.2, at a meeting of the Council, no motion or amendment shall be moved to change any resolution of the Council which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period

16.2 Such a motion may be moved if:

- a. it is recommended by the Cabinet or a committee; or
- b. notice of such motion has been given under Procedure Rule 14 and signed by at least 12 elected Members of the Council.

17. Voting and Recorded Votes

17.1 Voting will be by a show of hands

17.2 When before the vote, a Member asks for a recorded vote to be taken, and 12 other Members indicate by show of hands their support the request, the vote will be recorded to show whether each Member voted for or against the motion or abstained

17.3 A recorded vote will not be taken if the vote has already begun to be taken by a show of hands

17.4 A Member may require, after a vote is completed, that the minutes of the meeting record how he/she voted or abstained. Note: this is a rule required by law.

17.5 Where there are equal votes cast for a motion or amendment the Mayor or the person presiding will have a second or 'casting' vote.

17.6 A recorded vote must take place when setting the Council's budget and determining the level of Council Tax to be levied for each financial year. This rule will apply to both the substantive motion and any amendments. Note: this is a rule required by law.

18. Duration of Meeting

Any meeting of the Council which has sat continuously for 3 hours will stand adjourned to a date to be agreed by the Mayor, unless the majority of Members present resolve by vote to continue the meeting.

19. Public Access to Meetings

Members of the public (including the press) may attend all meetings subject only to the exceptions set out in the Access to Information Rules in Appendix 11.

20. Petitions

All petitions received are dealt with in accordance with the Council's Petition Scheme (Appendix 27).

21. Recording and Social Media

21.1 Recording and filming of public meetings of the Council, Cabinet and Committees is permitted unless this is undertaken in a disruptive manner.
Note: this is a rule required by law.

21.2 Where a disruption of the business of the meeting occurs, the Mayor, or Chair of the meeting, will have the right to exclude the individuals concerned from the meeting in accordance with Rule 22.

21.3 All Mobile phones will be placed in silent mode and no calls may be made or received in the meeting room during the meeting.

22. Disorderly Conduct and Disturbance

22.1 If the Mayor considers a Member's conduct to be disorderly, he/she may say that to the Council.

22.2 Any Member may then move that the Member referred to in 22.1 above speak no more on that item (NB "That the Member be not heard further") and the motion if seconded shall be put to the vote and determined without discussion.

22.3 If the Mayor considers that a Member's conduct continues to be disorderly, the Mayor shall either:

- a. move that the Member leave the meeting and the motion shall be put and determined without seconding or discussion; or
- b. adjourn the meeting of the council for as long as the Mayor considers appropriate.

22.4 In the event of general disturbance the Mayor may without question adjourn the meeting for as long as he/she considers appropriate.

22.5 If a member of the public interrupts the meeting, the Mayor may issue a warning and if the interruption continues, the Mayor may order removal of the person from the room and may order all or part of the room open to the public to be cleared.

23. Records of Attendance

The names of all those members present at the meeting will be recorded in the minutes.

24. Personnel Matters

24.1 Staff Establishment

Within the budget the Chief Executive shall from time to time determine the establishment of the Council and the terms and conditions of posts.

24.2 Recruitment, Selection and Induction

All vacancies shall be dealt with in accordance with the Council's approved Recruitment, Selection and Induction Policies & Procedures, except where the Council determines otherwise.

24.3 Appointment/Dismissal of Senior Officers

The requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (see Annex 3 to this Appendix) will be followed.

25. Declaration of Interests at Meetings

25.1 A member with a Disclosable Pecuniary Interest (DPI) in a matter (as defined in Appendix A to the Code of Conduct for Members at Appendix 18) must declare that interest and must not participate in any discussion or vote on the matter.

25.2 Where a matter arises at a meeting which relates to an interest in Appendix B to the Code of Conduct for Members or to a financial interest of the member, a friend, relative or close associate (and which is not a DPI) the interest must be declared but the member may take part in the discussion and vote unless the provisions of paragraph 25.3 apply.

25.3 Where the matter affects the declarable interest of more than the majority of people in the area that will be affected by the decision, and a reasonable member of the public would think the member's view of the public interest would be adversely affected, then the member must not vote on the matter and may speak on the matter only if members of the public are also allowed to speak at the meeting.

26. Suspension, Variation and Revocation of the Rules of Procedure

26.1 The Council may resolve to amend or revoke any of these Procedural Rules except as set out at 26.4 following a recommendation of Cabinet

26.2 Except as above any motion to amend or revoke these Rules shall be adjourned without discussion to the next meeting of the Council unless the Mayor waives such adjournment

26.3 All of these Procedural Rules except as set out in 24.4 may be suspended by motion on notice or without notice if at least 30 Members are present. Suspension can only be for the duration of the meeting.

26.4 Rules 10.3 (minutes of meetings) 17.4 (recording of votes), 17.6 (recorded votes and budget meetings) and 21.1 – 21.2 (Recording & Social Media) may not be amended, suspended or revoked as these are required by statute.

27. Confidentiality

All reports and other documents and all proceedings of the Council, the Cabinet, committees and sub-committees from which the public and press are excluded shall be treated as confidential unless and until they become public in the ordinary course of the Council's business or as required by the law. No Member may release such information on the basis it is required by the law without first consulting with the Chief

Executive. Disclosure in breach of the Council's rules will be a breach of the Code of Conduct (Appendix 18).

28. Rules of Procedure to be given to Members

A link to the Constitution will be made available to each Member of the Council as soon as practicable after their election.

29. Interpretation of the Rules of Procedure

The ruling of the Mayor, or if not the Mayor the Chair of the meeting, as to the meaning or application of any of the rules or as to any proceedings of the Council, Cabinet, a committee or sub-committee shall not be challenged at any Council meeting.

30. Rules of Procedure to apply to Committees etc.

30.1 In addition to rules which relate specifically to committees and sub-committees the following rules (with any necessary modifications) shall apply:

- | | |
|----------|---|
| Rule 1.2 | Time and place of meetings |
| Rule 1.3 | Summons for meetings |
| Rule 1.4 | Notice of meetings |
| Rule 4 | Special meetings |
| Rule 8 | Urgent business |
| Rule 15 | Rules of debate |
| Rule 16* | Changing an earlier resolution |
| Rule 17 | Voting |
| Rule 18 | Duration of the meeting |
| Rule 19 | Public access to meetings |
| Rule 21 | Recording and social media |
| Rule 22 | Disorderly conduct and disturbance |
| Rule 23 | Records of attendance |
| Rule 25 | Declarations of Interests |
| Rule 27 | Confidentiality |
| Rule 29 | Interpretation of the Rules of Procedure. |

30.2 * In the case of Rule 16 (changing an earlier resolution) at a meeting of a committee or sub-committee no motion or amendment may be moved which was passed within the preceding six months, or which is to the same effect as one which has been rejected within that period, unless it is

recommended by Full Council. A decision shall only be referred back to the original decision making body once.

31. Quorum

Except where authorised by statute or ordered by the Council, business shall not be transacted at a meeting of any committee or sub-committee unless a quorum is present.

<u>No. of Members</u>	<u>Quorum</u>
16 or over	5 persons
10 to 15	4 persons
5 to 9	3 persons
Less than 5	2 persons

32. Chair

- 32.1 Meetings will be chaired by the Member appointed by the Council or in the absence of the Chair the Vice Chair or in the absence of both a Chair for the meeting may be appointed.
- 32.2 Joint meetings of committees and sub-committees will be chaired by the Chair or in his absence the Vice Chair of the committee or sub-committee initiating the arrangements for the meeting.

33. Substitutes

- 33.1 For every member of a committee, there can be one substitute nominated.
- 33.2 Any Member who is due to miss a meeting should inform the Chair of the relevant committee at least 24 hours before the committee is due to meet (and that it is the Member concerned who does this).
- 33.3 At any one meeting, there should be no more than 2 substitutes per political grouping present.
- 33.4 Training will be provided for nominated substitutes on regulatory committees.
- 33.5 Where a Planning Committee site visit is involved, substitutes will only be allowed to attend and vote at the relevant Planning Committee if they have been on the site visit.

Updated November 2019

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO

FULL COUNCIL

20 November 2019

1. **Report Title** **Review and Update of Access to Information Procedure Rules**
- Submitted by:** **Interim Head of Legal & Monitoring Officer**
- Portfolio** **Corporate and Service Improvement People and Partnerships**
- Ward(s) affected:** **All**

Purpose of the Report

The report summarises proposed changes to the Access to Information Procedure Rule which will require full Council approval to any amendments.

Recommendations

That Council approves the proposed amendments to the Access to Information Procedure Rules.

Reasons

The Access to Information Procedure Rules form part of the Council's Constitution (at Appendix 11) and deal with the requirements and processes and procedures which govern reports, decision making and access to documents. The review updates the Procedure Rules and alters the wording where clarification is helpful.

1. **Background**

- 1.1 The Council Procedure Rules and Committee Procedure Rules are currently at Appendix 11 Constitution. The Rules were last updated in May 2017 and so do not require a major update from a legal perspective but would benefit from simplification as the Rules are lengthy and complex in parts.

2. **Issues**

- 2.1 The Council should regularly review its Constitution and update the provisions.
- 2.2 Most of the Rules have not required any major amendments as they are compliant with the relevant legislation including the Local Authority (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which introduced the most recent changes. However, many Councils now adopt a far simpler style of drafting and so some of the wording in the current rules have been simplified. In particular reference in the Rules to the "Executive" has been altered to the Cabinet throughout.
- 2.3 In addition the opportunity has been taken to propose an increase to the current cap on the definition of a key decision and to increase it from £50k to £100k revenue expenditure and £250k capital expenditure, which will bring it more in line with other district Councils.

3. **Proposal**

3.1 A summary of the changes proposed includes;

New Rule	Content	Comment
1. Scope	Procedure Rules apply to all formal meetings of Council, Committees and Cabinet	No change except reference to Cabinet not Executive
2. Rights of the Public to Attend Meetings	Provides the public may attend all formal meetings subject only to the exceptions in the Rules.	No change
3. Notices of Meetings	Details of 5 clear days' notice required by posting at the offices and on the Councils website	Updates to refer to new Council offices
4. Access to Agendas & Reports Before a Meeting	Copies of agendas and reports to be available for inspection by the public at least 5 clear days before the meeting or as soon as available to members	No change
5. Supply of Documents & Charging	The Council will supply electronic copies of agendas, reports & associated documents at no charge but reserves the right to make a reasonable charge for posting & copying hard copy documents	Original wording retained with minor word change
6. Access to Documents following a Meeting	Minutes, agendas and reports will be available for 6 years after a meeting	No change except reference to Cabinet not Executive
7. Background Papers Listed in Reports	Background documents will be available 4 years after a meeting	No change
8. Exclusion of the Public from the whole or part of meeting	Sets out the 7 categories of exempt information together with exceptions to the categories. Also summarises the Public Interest Test	Wording simplified to explain exemptions under Planning Restrictions, Public Interest Test and new section on Licensing Act 2003 exemptions
9. Non-Disclosure of	The MO may exclude access by	Wording simplified to clarify

Reports to the Public	the public to exempt reports. Reports will be marked “Not for publication” and the category of exempt information.	the MO’s decision to exclude from publication any exempt reports
10. The Cabinet	Sets out the detailed definition of a key decision including a number of exceptions to the main definition	Wording amended to include the longer definition of a key decision found at section 13.2 in Part 2 of the Constitution. Also proposes increase of cap from £50k to £100k revenue and to £250k capital expenditure as this has not been reviewed for some time & is more in line with other Councils
11. Cabinet Key Decision	A Key Decision may not be taken unless a notice (known as the Cabinet Forward Plan) has been published, at least 28 days has elapsed and at least 5 clear days’ notice has been given of the Cabinet meeting itself	Wording simplified and clarification that the statutory notice requirements is within the Forward Plan.
12. 28 Day Notice of Cabinet Decisions and/or Confidential/Exempt Decisions (Forward Plan)	Summarises the requirements to give 28 days’ notice of key decisions and of both confidential and exempt decisions in the Cabinet Forward Plan. Amends the previous requirements for consultation	Largely original wording
13. Key Decisions - General Exception	Sets out the process to be followed when a key decision or a confidential or exempt matter has not been included in the Forward Plan but it is impractical to defer it. Provides that the Chair of the Scrutiny Committee must be informed or in their absence all of the relevant Scrutiny Committee members. There must be at least 5 clear days’ notice	Wording simplified
14. Key Decisions – Special Urgency	Provides that if the decision is so urgent that the 5 days’ notice under Rule 14 cannot be given	Wording simplified and reference from Leader and Deputy Leader altered to

	the decision may be taken with the agreement of the Chair of the relevant committee or in their absence the Vice Chair or Mayor or Deputy Mayor	Mayor and Deputy Mayor since a member of the Executive ought not to sign off urgent executive items where there has been no opportunity to scrutinise the item
15. Reports to Full Council	A Scrutiny Committee can require the Cabinet to take a report to full Council if they are concerned the procedures for key decisions have not been followed. The Leader must report to full Council on Cabinet decisions on reports taken to Cabinet using the urgency procedures	Wording simplified and updated
16. Record of Decisions	Sets out when decisions must be recorded and what must be included including reasons for the decision and alternative options considered	Wording simplified
17. Attendance of Private Meetings of Cabinet	Sets out the process for private meetings of Cabinet and the right of statutory officers to attend	Wording largely unchanged
18. Decisions of Individual Members of Cabinet or Officers	Summarises the requirements where an individual Cabinet member makes a decision and adds more detail around formal officer decision making	Wording largely unchanged but clarifies which requirements also apply to officer decisions
19. Scrutiny Committee Access to Information	Sets out when Scrutiny Committees may see copies of documents in the control of the Cabinet which contain relevant information and the exceptions which apply	Original wording retained
20. Additional Rights of Access to Documents by Members	Provides all councillors are entitled to inspect documents due to be considered at public meetings of the Cabinet. Sets out the right to inspect document due to be considered in private session and entitlement to see documents after a decision has been made. Special rules apply to the disclosure of confidential or exempt information.	Wording largely unchanged

21. Members Access to Information – “Need to Know”	Summarises the “need to know” where members need information so they can reasonably discharge their duties giving the final decision on release to the MO	Original wording retained
22. Confidentiality of Council Business	Sets out the process for dealing with confidential and exempt information. Adds the process for information received by Working Parties	Adds category of exempt information as well as confidential
23. Additional Rights to Information	States the rules do not affect any more specific entitlement to information enshrined elsewhere in the Constitution	Original wording retained
24. Offences	Summarises the provisions in the Regulations which make it an offence to obstruct the entitlement to information	Original wording retained but reference to regulations added

A copy of the Access to Information Procedure Rules with tracked changes (showing) is appended to this report at Appendix A.

4. **Reasons for Proposed Solution**

- 4.1 To update the current rules to reflect changes in legislative requirements since the last review and to clarify procedural requirements,

5. **Options Considered**

- 5.1 There is an option to do nothing but this would mean continuing to work with Rules which are complex to understand and follow as a whole.

6. **Legal and Statutory Implications**

- 6.1 All local authorities are required to have a written Constitution which must be kept under regular review and publicised. Any amendments to the Constitution require the approval of full Council

7. **Equality Impact Assessment**

- 7.1 Where any equality impact has been identified it has been addressed.

8. **Financial and Resource Implications**

- 8.1 No significant additional resources will be required in relation to the recommendations.

9. **Major Risks**

- 9.1 That the Access to Information Procedure Rules do not reflect up to date legal requirements and /or best practice resulting in challenge to Council decisions and/or reputational damage.

10. **Sustainability and Climate Change Implications**

- 10.1 There are no direct implications.

11. **Key Decision Information**

- 11.1 This is not a key decision which requires inclusion on the Cabinet Notice of Decisions/ Forward Plan.

12. **Earlier Cabinet/Committee Resolutions**

The previous meeting of the Working Group requested a review Access to Information Procedure Rules.

13. **List of Appendices**

- 13.1 A copy of the Access to Information Procedure Rules with tracked changes is attached at Appendix A to this report.

14. **Background Papers**

- 14.1 There are no background papers for consideration/inclusion.

APPENDIX 11

ACCESS TO INFORMATION PROCEDURE RULES

<u>Rule No.</u>	<u>Subject</u>
1	Scope
	Interpretation
2	Rights of the public to attend meetings
3	Notices of meetings
4	Access to agendas and reports before a meeting
5	Supply of documents and charging
6	Access to documents following a meeting
7	Background papers listed in reports
8	Exclusion of the public from the whole or part of a meeting
9	Non-disclosure of reports to the public
10	The Executive Cabinet
11	Executive Cabinet Key Decisions
12	The 28-day notice of Executive Cabinet Decisions and/or Confidential/Exempt Decisions (Forward Plan)
13	The Exceptions <u>Key Decisions – General Exception</u>
14	<u>Key Decisions – Special Urgency</u> Urgent items
15	Reports to Full Council
16	Record of decisions
17	Attendance at private meetings of the Executive Cabinet
18	Decisions by individual members of the Executive Cabinet
19	Scrutiny Committee access to documents
20	Additional rights of access to documents by Members
21	Member access to information – ‘need to know’
22	Confidentiality of Council business
23	Additional rights to information
24	Offences

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**These Rules are produced in accordance with the provisions of the
Local Authorities (Executive Arrangements)
(Meetings and Access to Information) (England) Regulations 2012**

1. SCOPE

These Procedure Rules apply to all meetings of the Council, its committees and sub-committees and formal meetings of the ~~Executive Cabinet~~.

~~1. INTERPRETATION~~

~~These Rules will be interpreted, where possible, in accordance with the following guiding principles:~~

~~(d) **Openness:** the right of the public to gain access to meetings and documents~~

~~(f) **Transparency:** the provision of information so that the public know who is responsible for making a particular decision, when and where a decision will be made, and an explanation or justification for a decision~~

~~(h)(a) **Accountability:** the public can measure the actions taken against policies and plans on which those responsible were elected to office.~~

Commented [CE1]: Not really necessary to have guiding principles

2. RIGHTS OF THE PUBLIC TO ATTEND MEETINGS

Members of the public may attend all formal meetings of the Council ~~-(as described in Rule 1 above)~~, subject only to the exceptions set out in these Rules and in any statutory provisions.

~~Where there is a Key Decision and/or confidential/exempt decision, the 28 day notice provisions set out in Rule 13 shall apply.~~

Commented [CE2]: Not relevant to public attendance

~~5.3.~~ NOTICES OF MEETINGS

The Council will give at least 5 clear days' notice of any meeting (unless the meeting is convened at shorter notice under the Council's urgency procedures) by posting details of the meeting at ~~the Civic Offices, Merrial Street, Newcastle~~ Council Offices Castle House Newcastle-under-Lyme (the designated office) and by publication on ~~its~~ the Council's website (www.newcastle-under-lyme.gov.uk).

~~6.4.~~ ACCESS TO AGENDAS AND REPORTS BEFORE A MEETING

The Council will make copies of agendas and reports open to the public available for inspection at the designated office and on the website at least 5 clear days before a meeting. If an item is added to an agenda later under the Council's emergency procedures, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent

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out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to elected Members.

7.5. SUPPLY OF DOCUMENTS AND CHARGING

The Council will supply, usually in electronic form, copies of:

- (a) Any agenda and reports which are open to public inspection
- (b) Any further statements or particulars necessary to indicate the nature of the items on the agenda; and
- (c) If the ~~designated officer~~ Chief Executive thinks fit, copies of any other non-exempt documents supplied to elected Members in readiness for a meeting

~~Such documents~~ Documents will be made available to the public by the Council publishing them on its website. A reasonable number of copies of agendas and reports ~~must will~~ be made available for the public present at a meeting.

Charging

No fee is charged for inspecting any of the documents referred to in this section. The Council reserves the right to make a reasonable charge for postage and copying of hard copy documents.

8.6. ACCESS TO DOCUMENTS FOLLOWING A MEETING

The Council will make available copies of the following for 6 years after a meeting:

- (a) the minutes of the meeting (or records of decisions taken, together with reasons, for all meetings of the ~~Executive Cabinet~~) excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
- (c) the agenda for the meeting
- (d) reports relating to items when the meeting was open to the public.

9.7. BACKGROUND PAPERS LISTED IN REPORTS

The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which, in his or her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based
- (b) which have been relied on to a material extent in preparing the report but does

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not include published works or those which disclose exempt or confidential information (as defined in Rule 9) unless the exemption no longer applies.

The Council will make available for public inspection for 4 years after the date of the meeting a copy of each of the documents on the list of background papers.

10.8. EXCLUSION OF THE PUBLIC FROM THE WHOLE OR PART OF A MEETING

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt or confidential information would be disclosed. A committee or sub-committee are required to pass a resolution to exclude the public where exempt or confidential information will be disclosed.

'Confidential' information means information given to the Council by a Government department on terms that forbid its public disclosure or information which cannot be disclosed publicly by Court Order.

'Exempt' information means information falling within one or more of the following 7 categories (subject to any condition):

	CATEGORY	CONDITION
1	Information relating to any individual	In accordance with the Data Protection Act 1998
2	Information which is likely to reveal the identity of an individual	In accordance with the Data Protection Act 1998
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Includes information relating to the authority's own financial or business affairs. -It does <u>not</u> include information which is required to be registered under the Companies Act 1985, the Friendly Societies Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Building Societies Act 1986 or the Charities Act 1993 as such <u>information</u> <u>this information</u> will <u>already</u> be in the public domain. Financial or business affairs includes past, present and contemplated activities

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4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority	Information may only be exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter. 'Labour relations matters' are as specified in paragraphs (a) to (g) of Section 218 of the Trade Unions and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
6	Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	

The following exceptions apply:

Planning Restrictions

Information is not exempt if it relates to a proposed development for which the Council as the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.

Licensing Act 2003

The specified categories of exemptions do not apply to Licensing Act 2003 hearings, as these are required to be open to the public.

Town and Country Planning General Regulations 1992

~~Information may not be deemed exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.~~

Commented [CE3]: Referred to above

Human Rights Act 1998

Where a meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6, as follows:

- (a) It is in the interests of morals, public order or national security in a democratic society, to hear the matter in private; or

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- (b) Where the interests of juveniles or the protection of the private life of the parties requires that the matter should be heard in private; or
- (c) Where in the opinion of the meeting, due to special circumstances, publicity would prejudice the interests of justice.

Public interest test

Paragraphs 1-7 of the exemptions listed above are subject to the public interest test ~~ie~~ ~~in~~ ~~in~~ determining whether information should remain exempt, the report writer and the decision maker ~~will have to~~ must decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

~~In respect of all Council, committee and sub-committee reports, writers~~ Report writers will ~~therefore~~ need to give consideration to exempt information and the public interest test, and if it is determined that the document should not be published, ~~they will~~ need to explain why or how the public interest test is best served by the information remaining exempt. The fact that a document is exempt, together with reasons, will appear in the report and the agenda relating to that item.

The Monitoring Officer will ultimately determine whether reports and related documents are exempt or not and his/her decision will be final.

Where the public may be excluded from a meeting or part of a meeting due to an exempt report being considered, the members of the meeting will need to consider the public interest test, having given due consideration to any legal advice provided.

11.9. NON-DISCLOSURE OF REPORTS TO THE PUBLIC

Confidential information

Reports containing confidential information will not be disclosed to the public.

Exempt information

If the Monitoring Officer thinks fit the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with paragraph 9, the meeting is not likely to be open to the public. ~~determines that a report contains exempt information in accordance with Rule 9, having applied the public interest test, he/she may refuse to disclose to the public any reports which in his/her opinion relate to items during which, in accordance with Rule 9, the meeting is likely to exclude the public.~~

Commented [CE4]: Simplifies wording

Such reports will be marked 'Not for Publication' together with the category of information likely to be disclosed.

12.10. THE EXECUTIVE CABINET

Access to Information Rules 12-11 to 22-21 inclusive apply to the ~~Executive Cabinet~~ only

If the ~~Executive meets~~ Cabinet meets to take a Key Decision, then it must also comply with Access to Information Rules ~~1-109 inclusive~~ above unless Rule 14-13 (exception) or Rule ~~15-14~~ (urgency) apply. The definition of a Key Decision is:

A decision by or on behalf of the Cabinet which is likely:

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- a. To result in the Borough Council incurring expenditure or making savings of an amount which is significant having regard to the Council's budget for the service or function to which the decision relate; or
- b. To be significant in terms of its effects on communities living or working in an area comprising two or more electoral wards in the Borough

It is for the Authority to determine what is significant. For the Borough of Newcastle-under-Lyme the definition is that it will result in the Council incurring expenditure or making a saving to the value of £100,000 or more revenue expenditure or £250,000 capital expenditure .

Commented [CE5]: Increase of both figures from £50k

But a decision will not be a key decision if it is:

Commented [CE6]: Definition of KEY DECISION AT SECTION 1 PARA 13 OF CONSTITUTION

- a. To give effect to a provision of the Council's Budget or Policy Framework and, where appropriate, for which financial provision has been made; or
- b. To implement nationally or locally agreed pay awards for officers in accordance with the terms of such award; or
- c. Expenditure incurred by the s151 Officer in the exercise of Treasury Management powers delegated to him or her; or
- d. Expenditure incurred by the Chief Executive in the exercise of powers delegated to him or her relating to an emergency or a disaster to which section 138 of the Local Government Act 1972 applies; or
- e. The making of savings by way of the closure or discontinuance of a Council service, or part of a service, to meet a budgetary constraint.

The Cabinet or an officer acting under delegated powers may only make a key decision in accordance with the requirements of the Council Procedure Rules set out in Part 4 of this Constitution.

- ~~Any Executive decision (as opposed to a regulatory decision) which is likely to result in the Council incurring significant expenditure or the making of savings where there is:~~
 - ~~(-) A change in service provision that impacts upon the service revenue budget by £50,000 or more, or~~
 - ~~(-) a contract worth £50,000 or more, or~~
 - ~~(-) a new or un-programmed capital scheme of £50,000 or more, or~~
- ~~(1) Any Executive decision which will have a significant impact in environmental, physical, social or economic terms on communities living or working in an area comprising two or more electoral wards.~~

If the ~~Executive Cabinet~~, or any member of the ~~Executive Cabinet~~, meets with an officer to determine a Key Decision within 28 clear days of the date according to the 28 day notice of key and/or confidential/exempt decisions (see Rule ~~13~~~~12~~) by which it is to be decided, then it must also comply with Access to Information Rules 1 to ~~40~~~~9~~(inclusive), unless Rules ~~14~~~~13~~ or ~~15~~~~14~~ apply.

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This requirement does not apply to officer/member briefings or any ~~non-decision making~~ meetings ~~which are not taking formal decisions.~~

13.11. EXECUTIVE CABINET KEY DECISIONS

Subject to Rules ~~44-13~~ and ~~45-14~~, a Key Decision may not be taken unless:

- (a) a notice (~~known as the 28 day notice of key and/or confidential/exempt decisions which will be taken in private~~) (known as the Cabinet Forward Plan) has been published in connection with the matter in question
- ~~(e)(b)~~ at least 28 clear days have elapsed since the publication of the ~~notice in which Cabinet Forward Plan the decision was first included~~; and
- (c) where the decision is to be taken at a meeting of the ~~Executive Cabinet~~, notice of the meeting has been given in accordance with Access to Information Rule 4. (Notices of Meetings).

14.12. THE 28 DAY NOTICE OF EXECUTIVE CABINET DECISIONS AND/OR CONFIDENTIAL/EXEMPT DECISIONS (FORWARD PLAN)

Period covered

A 28 day notice of key and/or confidential/exempt decisions (which will be taken in private) (~~previously known as the Cabinet~~ Forward Plan) will be prepared by Democratic Services and updated when a new notice is made and published, which will be at least 28 clear days prior to any regular scheduled meeting of the ~~Executive Cabinet~~.

At least 5 clear working days prior to the day of any private meeting of the ~~Executive Cabinet~~ Democratic Services will publish a further notice on the agenda for the meeting and the Council's website confirming the ~~Executive's Cabinet's~~ intention to hold all or part of the meeting in private, a statement of the reasons for privacy and details of any representations received by the Council as to why the meeting should be held in public and the ~~Executive's Cabinet's~~ response to those representations.

Notice

The notice will contain matters which Democratic Services consider will be the subject of a Key Decision and/or a private decision (confidential/exempt) to be taken by the ~~Executive Cabinet~~, individual members of the ~~Executive Cabinet~~ an officer or under joint arrangements in the course of the discharge of an Executive function during the period covered by the notice. It will describe the following particulars insofar as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a Key Decision/private decision is to be made
- (b) where the decision maker is an individual, his/her name and title, and where the decision maker is a body, its name and details of membership
- (c) the date on which, or the period within which, the decision will be taken

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- (d) a list of the documents submitted to the decision maker for consideration in relation to the matter
- (e) the location from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available
- (f) the identity of the principal groups whom the decision maker proposed to consult before taking the decision

(g) the means by which any such consultation is proposed to be undertaken

(h) the steps any person might take who wishes to make representations to the ~~Executive Cabinet~~ or decision maker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and

(i) the reasons why the matter will be confidential/exempt.

The notice must be produced and published at least 28 clear days before the day upon which the decision is to be taken, whether by a meeting or by an individual member of the Executive.

15.13. KEY DECISIONS – GENERAL EXCEPTION THE EXCEPTIONS

~~If a matter which is likely to be a Key Decision/private decision has not been included in the 28 day notice of key and/or confidential/exempt decisions, then subject to Access to Information Rule 15 (urgency).~~

~~If a key decision has not been included in the Cabinet Forward Plan, the decision may~~ a decision may still be taken if:

- (a) ~~the decision needs to be taken by such a date that~~ it is impracticable to defer it until 28 clear days' notice has been given ~~by notice~~
- (b) Democratic Services ~~have, in writing, informed~~ have informed the Chair of the relevant Scrutiny Committee, (or if there is no such person, each member of the ~~relevant that Scrutiny Committee~~), ~~by notice, of the matter to which the decision is to be made by notice in writing of the matter and why compliance with the 28 day notice period is impracticable~~
- (c) Democratic Services have made copies of that notice available to the public, on the Council's website or at the Borough Council offices; ~~and or~~
- (d) At least **5 clear working days have elapsed** since Democratic Services complied with (b) and (c).

Where such a decision is taken by the ~~Executive Cabinet~~, it must be taken in ~~public, subject to the provisions of Access to Information Rules 9 and 13.~~ public, unless the information is exempt.

16.14. KEY DECISIONS – SPECIAL URGENCY URGENT ITEMS

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16.14.1 Executive Key and/or Confidential/Exempt Decisions which are urgent

~~If by virtue of the urgency of a matter~~ If the decision is so urgent that ~~Access to Information Rule 14-13~~ cannot be ~~complied with, followed~~ then the decision can only be taken if Democratic Services on behalf of the decision maker, obtains the agreement, in writing, of the Chair(s) of the relevant Scrutiny Committee(s) that the taking of the decision is urgent and cannot reasonably be deferred.

If the Chair(s) is unable to act, ~~then in their absence~~, the agreement of the Vice-Chair(s) ~~of the relevant Scrutiny Committee(s)~~ will be sought.

If neither ~~of the Chair(s) or Vice-Chair(s) are is~~ available, ~~in their absence~~ the agreement of the ~~Leader of the Council Mayor~~ will suffice (and if not available, the Deputy ~~Leader Mayor~~ of the Council).

As soon as reasonably practicable after the decision maker has obtained agreement that the decision is urgent, a notice must be published at the Council offices and on its website setting out the reasons for the urgency.

16.214.2 Other Decisions which are urgent

Only items on an agenda which has been published 5 clear days before the date of a meeting can be considered at that meeting. However, the Chair of the meeting is permitted to add urgent items to the agenda at that meeting. Urgent items are defined as being those items that by reason of special circumstance have arisen since the despatch of the agenda and which were not known of at the time the agenda was published, provided that ~~16.14.1~~ above is complied with.

Urgent items cannot be dealt with as 'any other business' or 'matters arising' items.

17.15. REPORTS TO FULL COUNCIL

17.15.1 When a Scrutiny Committee can require a report

A relevant scrutiny committee can require that the ~~Executive Cabinet~~ submit a report to Full Council within such reasonable time period as the ~~scrutiny~~ committee specifies if they ~~consider~~ think that a Key Decision has been taken which was not:

(a) treated as a Key Decision or

(b) included in the Cabinet Forward Plan of Key Decisions ~~28 day notice of Key and/or Confidential/Exempt Decisions;~~ or

~~(b)(c)~~ (c) the subject of the general exception procedure at Rule 13 or

~~(e)(d)~~ (d) the subject of an agreement under ~~Access to Information the Special Urgency Procedure at Rule 16-14 (Urgency).~~

When directed to do so by either the Chair of the relevant scrutiny committee or by any 5 members of that scrutiny committee, the Chief Executive on behalf of the relevant scrutiny committee ~~or the Executive,~~ will serve notice in writing upon the Council Leader, requiring ~~such~~ a report to be submitted to Full Council.

Alternatively, the relevant scrutiny committee may pass a resolution at their meeting to require ~~such~~ a report of the ~~Executive Cabinet~~ to Full Council within a specified time period.

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~~17.2~~15.2 ~~Executive's report~~Cabinet's report to Full Council

The ~~Executive will~~Cabinet will prepare a report ~~for submission to~~ for the next available meeting of the Council, when required to do so in ~~accordance with Access to Information - Rule~~under Rule 1615.1. However, if the next meeting of the Council is within 7 days of ~~receipt of the written notice, or~~ the resolution of the scrutiny committee ~~requiring the report~~, then the report may be submitted to the meeting held next after that.

The report to Council will set out particulars of the decision, the individual or body making the decision, and, if the Leader is of the opinion that it was not a Key Decision, the reasons for that opinion.

~~17.3~~15.3 Reports on Special Urgency Provisions and General Exceptions

~~In any event the Leader of the Council will submit a report to full Council on any Cabinet decisions taken as an urgent decision under Rule 13 or without having given 28 days' notice under Rule 12 The Leader shall include in his/her report to Full Council a summary of any Executive Decisions taken in the circumstances set out in Access to Information Rule 15 taken since the previous Full Council meeting.~~

~~18.16.~~ RECORD OF DECISIONS

~~16.1~~ Recording of ~~Executive - Cabinet~~ Decisions

After any meeting of the ~~Executive~~Cabinet, whether held in public or in private, a record of every decision taken at that meeting will be produced as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

The statement must include:

- (a) a record of the decision including the date it was made and reasons for the decision
- ~~(a) — a record of the reasons for the decision~~
- (b) details of any alternative options considered and rejected by the Cabinet decision-making body at the meeting ~~at which the decision was made~~
- (c) a record of any conflict of interest relating to the ~~matter decided~~ decision which is declared by any member of the ~~decision-making body~~ Cabinet which made the decision; and together with a note of any dispensation granted by the Audit and Standards Committee
- (d) ~~in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive~~

~~Executive decisions made by individual members of local authority Executives are prescribed decisions for the purposes of Section 9G(4) of the Local Government Act 2000 (duty to keep a written record of decisions made by individual members of local authority Executives).~~

~~(d) —~~

~~16.2~~ Recording of ~~Executive - Cabinet~~ decisions made by individuals

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As soon as reasonably practicable after an individual Member has made an Executive decision, that Member must ~~produce~~ prepare, or instruct the relevant officer to prepare, a written statement of that ~~Executive~~ decision which includes the information specified below:

- (a) a record of the decision including the date it was made
- (b) a record of the reasons for the decision
- (c) details of any alternative options considered and rejected by the Member when making the decision
- (d) a record of any conflict of interest considered and rejected by the Member when making the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive Audit and Standards Committee

~~Executive decisions made by individual members of local authority Executives are prescribed decisions for the purposes of Section 9G(4) of the Local Government Act 2000 (duty to keep a written record of decisions made by individual members of local authority Executives).~~

16.3 Recording of Executive decisions made by officers

As soon as reasonably practicable after an officer has made a decision which is an Executive decision, that officer must produce a written statement which includes the information specified below:

- (a) a record of the decision including the date it was made
- (b) a record of the reasons for the decision
- (c) details of any alternative options considered and rejected by the officer when making the decision
- (d) a record of any conflict of interest declared by any Executive Cabinet Member who is consulted by the Officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive.

17 ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE CABINET

All Members of the Executive Cabinet will be served notice of all private meetings of the Executive Cabinet, and all ~~such~~ Cabinet Members are entitled to attend such meetings.

The statutory officers (Head of the Paid Service, Chief Financial Officer and Monitoring Officer) are entitled to attend any meeting of the Executive Cabinet.

The Executive Cabinet may not meet unless Democratic Services have been given reasonable notice that a meeting is to take place. A private Executive Cabinet

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meeting may only take place in the presence of a member of Democratic Services with responsibility for recording and publishing the decisions.

18 DECISIONS BY INDIVIDUAL MEMBERS OF THE ~~EXECUTIVE~~CABINET

18.1 Decision reports

Where an individual member of the ~~Executive Cabinet~~ receives a report which he/she must consider prior to making any decision, then he/she will not make the decision until at least 5 working days after the receipt of that report.

However, if the decision is a Key Decision and/or Confidential/Exempt Decision, the 28 day notice provisions in ~~Access to Information~~ Rule ~~13-12~~ shall ~~will~~ apply.

18.2 Provision of copies of reports to scrutiny committees

When providing such a report to an individual member of the ~~Executive Cabinet~~, Democratic Services will provide a copy of it to the Chair and Vice-Chair to the relevant scrutiny committee as soon as reasonably practicable.

At the same time, Democratic Services will make the report publicly available by publishing it on the Council's website, unless it is deemed confidential or exempt in accordance with ~~Access to Information~~ Rule ~~9-8~~ above.

18.3 Record of Individual Member decision

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the ~~Executive Cabinet~~, or a Key Decision has been taken by an officer, Democratic Services will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of ~~Access to~~ Access to Information Rules ~~7 6~~ and ~~7 8~~ (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Executive, subject to Access to Information Rule ~~9-8~~.

2019 SCRUTINY COMMITTEE ACCESS TO DOCUMENTS

2019.1 Right to documents

Subject to Access to Information Rule 2019.2 below, ~~scrutiny~~ Scrutiny committees ~~Committees~~ will be entitled to copies of any document which is in the possession of or control of the ~~Executive Cabinet~~ (or its committees) and which contains material relating to:

- (a) any business transacted at a public or private meeting of the ~~Executive Cabinet~~ or its committees; or
- (b) any decision taken by an individual member of the ~~Executive Cabinet~~; or
- (c) any decision taken by an officer authorising an Executive function.

Copies of documents requested under this Rule must be supplied within 10 working days of receipt of the request.

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20.219.2 Limitation

Subject to Access to Information Rule ~~24.20~~, the relevant ~~scrutiny~~ Scrutiny committee ~~Committee~~ will not be entitled to:

- (a) any document that is in draft form
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise, or is accessible in accordance with Access to Information Rule ~~24.20~~.4 below.

24.20 ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS BY MEMBERS

20.1 Documents relating to business to be transacted at a public meeting

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession of or under the control of the Executive Cabinet or its committees which contains material relating to any business to be transacted at a public meeting. Any document must be available for inspection at least 5 clear days before the day of the meeting except:

- (a) where the meeting is convened at shorter notice the document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available must be available for inspection when the item is added on the agenda

All such documents will be made available by publishing on the Council's website.

24.220.2 Documents relating to business to be transacted at a private meeting

Any document which is in the possession of or under the control of the Executive Cabinet and contains material relating to any business transacted at a private meeting will be available for Members to inspect at the office of Democratic Services, subject to Access to Information Rule ~~24.20~~.4 below. This Rule does not provide a right to copy such documents.

Where access is restricted to a document under this provision, the restriction is determined by Democratic Services, having taken account of the advice of the Monitoring Officer.

24.320.3 Disclosure of documents after the decision

Any document which is in the possession or under control of the Executive Cabinet and contains material relating to:

- (a) any business transacted at a public meeting
- (b) any decision made by an individual member of the Executive Cabinet in accordance with Executive Arrangements
- (c) any decision made by an officer in accordance with Executive Arrangements

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must be available for inspection by a Member immediately after the meeting concludes, or where an Executive decision is made by an officer, immediately after the decision has been made (and in any event, within 24 hours).

21.420.4 Access to confidential and exempt information

The entitlement to access to, or inspection of, documents does not extend to a document that contains confidential or exempt information unless the exemption solely relates to paragraphs 3 or 6 of the exemptions in Access to Information Rule ~~9.2.8~~ (except where the information relates to any terms proposed by or to the Council in the course of negotiations of contract).

Nothing in these Rules requires the disclosure of confidential information that breaches the obligation of confidence.

~~Nothing in these Rules requires the disclosure of a document, or part of a document, where advice had been provided by a political adviser or assistant.~~

Commented [CE7]: NULBS does not have Political Advisers

Members may therefore often be able to access reports which are exempt, but there are occasions when information:

- (a) is highly sensitive and involves complex negotiations
- (b) relates to a significant litigation risk

relates to sensitive personal information where the data subject would reasonably expect such information to be restricted only to decision makers.

2221 MEMBER ACCESS TO INFORMATION – ‘NEED TO KNOW’

22.221.2 Members have the right to seek information which they may reasonably need in order to assist them in properly discharging their duties as an elected Member of the Council. This can range from a request for general information about an aspect of the Council's activities to a request for specific information on behalf of a constituent.

22.321.3 Where there may be any discretion the normal test which is applied is whether the request which a Member has made for a particular piece of information is relevant to the capacity in which they are asking for it, e.g. as a member of a particular Committee, on a ward matter or similar. The need to know would only extend to personal information in exceptional cases and there are specific exemptions which are set out more fully in Access to Information Rule ~~9.2.8~~. In case of dispute or uncertainty, the final decision on whether information should be released or not is a matter for the Monitoring Officer.

2322 CONFIDENTIALITY OF COUNCIL BUSINESS

23.222.2 Confidential information

Any item of business at Full Council, a committee or sub-committee which is deemed to be confidential or exempt shall require that the relevant body's discussion in relation to the item be kept confidential and may only be disclosed to, and discussed by, the following:

- (a) Elected Members of the Council

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- (b) other persons appointed under Section 102 of the Local Government Act 1972 as members of committees or sub-committees
- (c) such officers of the Council as are concerned with the matter in the course of their duties, including the Monitoring Officer and the Chief Financial Officer
- (d) such other persons to whom, in the opinion of the Monitoring Officer, the item of business or report ought to be disclosed in order to comply with the Human Rights Act 1998 or any rule of law to avoid maladministration by the Council

and there shall be no further disclosure of such report, item of Council business or discussion thereof to any other person ~~whatsoever~~.

The business referred to in this Rule consists of any item of Council business which has been agreed as being confidential or exempt by the Council, its committees or sub-committees or by the Monitoring Officer in accordance with the Local Government Act 1972.

Information which has been deemed to be confidential or exempt may at some point in the future cease to be confidential and may be disclosed.

Advice should be sought from the Monitoring Officer in respect of confidential information.

23-322.3 **Working parties**

Subject to the Council Procedure Rules, a member of a working party set up by the Council shall not disclose a matter dealt with or brought before it, without its permissions until the proceedings of that working party have been reported to the Council or to the committee or sub-committee which set it up, or the working party shall otherwise have concluded action on that matter.

2423 **ADDITIONAL RIGHTS TO INFORMATION**

These Rules do not affect any more specific rights to information contained elsewhere in the Council's Constitution or the law.

2524 **OFFENCES**

25-224.2 A person who has custody of a document that relates to a meeting of the Cabinet (agenda, reports, background papers or decisions) which is required to be available for inspection by members of the public commits an offence if, without reasonable excuse, that person:

25-2-224.2.1 intentionally obstructs any person exercising a right conferred under these Rules to inspect, or to make a copy of the whole or part of the document; or

25-2-224.2.2 refuses to supply a copy of the whole or part of the document in accordance with these Rules.

25-324.3 A person who commits an offence under Rule 24 is liable on summary conviction to a fine not exceeding level 1 on the standard scale (see Regulation

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22 of the Local Authorities-(Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012)

~~May 2017~~ October 2019

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO

FULL COUNCIL

20 November 2019

1. **Report Title** **Review and Update of Responsibilities of the Council, its Committees and Sub Committees**

Submitted by: **Interim Head of Legal & Monitoring Officer**

Portfolio: **Corporate and Service Improvement, People and Partnerships**

Ward(s) affected: **All**

Purpose of the Report

The report summarises proposed changes to Appendix 1 to the Constitution which sets out the Responsibilities of the Council, its Committees and Sub Committees.

Recommendations

That Council approves the proposed amendments to the Responsibilities and Terms of Reference of the Council, its Committees and Sub Committees at Appendix A to the report

Reasons

Appendix 1 forms part of the Council's Constitution and deal with Terms of Reference for full Council and all Committees and Sub - committees. The review updates the Terms of Reference to reflect the current governance arrangements.

1. **Background**

- 1.1 The Responsibilities of the Council, its Committees and Sub Committees are currently set out at Appendix 1 of the Constitution. The document was last updated in September 2016 and so requires reviewing to reflect the Council's current committee structure and updating generally.

2. **Issues**

- 2.1 The Council should regularly review its Constitution and update the provisions.
- 2.2 Appendix 1 is currently divided into three main sections:
 - Appendix 1 sets out the responsibilities of Full Council
 - Annex 1 to Appendix 1 sets out Non executive Statutory Functions
 - Annex 2 to Appendix 1 sets out the Terms of Reference for Committees, Sub Committees and Working Parties of full Council

- 2.3 The opportunity has been taken to move all the Terms of Reference for Council and all Committees and sub Committees and Working Parties into one Appendix and just keep Annex1. Annex 1 has not been reviewed but was only updated in September 2018.

3. **Proposal**

- 3.1 A summary of the changes proposed includes;

Appendix 1	Content	Comment
Council	Updates the Terms of reference for full Council	<p>Updates & adds to the following sections:</p> <p>Elections</p> <ul style="list-style-type: none"> • Location of Polling Places <p>Constitution</p> <ul style="list-style-type: none"> • Leaders Scheme of Delegation for executive functions • Scheme of Delegation to Officers • Schedule of meetings of Council • Appointment of Independent Persons under the Localism Act 2011 • Updates the list of Policy Framework Documents <p>Service Provision</p> <ul style="list-style-type: none"> • Casino Premises Licence • Adoption of Conservation Areas, Character Area Appraisals & Management Plans & Article 4 Directions <p>HR</p> <ul style="list-style-type: none"> • Clarifies process for before dismissal of any statutory officer by Council • Annual Pay Statement
Audit & Standards Committee	<p>Changes the name from Audit & Risk Committee</p> <p>Updates the Audit Committees Terms of Reference based on CIPFA guidance</p> <p>Adds the Terms of Reference from the former Standards Committee</p>	<p>Adds the Terms of Reference from Standards Committee and deletes that Committee</p> <p>Re – writes all the Terms of Reference for the Audit Committee and replaces with the suggested Terms of Reference from CIPFA for Audit Committees and includes additional items which NULBC gives the Committee responsibility to deal with</p> <p>Incorporates all the Terms of Reference from the former Standards Committee and establishes a</p>

		<p>new Sub Committee of 3 members (politically balanced) to sit as a Hearings Panel to determine complaints under the Code of Conduct. This is to avoid the full Committee sitting to hear complaints.</p> <p>NB: These were approved by the Audit and Standards Committee on 11 November 2019</p>
Planning Committee	<p>Updates the Terms of Reference</p> <p>Separate report to Planning Committee recommends revision to the scheme of delegation to officers to allow determination of HS2 applications –see Appendix B</p>	<p>Updates Planning Terms of Reference</p> <p>Adds</p> <ul style="list-style-type: none"> • Determining prior approvals <p>NB: These were approved by the Planning Committee on 5 November 2019</p>
Licensing & Public Protection Committee	<p>Updates the Terms of Reference</p> <p>Separate report to Licensing & Public Protection Committee recommends revision to the scheme of delegation to officers to allow officer delegations for suspension, refusal & revocation of Hackney Carriage & Private Hire Vehicle Licences –see Appendix C</p>	<p>Updates Terms of Reference</p> <ul style="list-style-type: none"> • Adds full Terms of Reference for the Licensing sub Committee dealing with Licensing Act 2003 and Gambling act 2005 applications <p>NB: These were approved by Licensing & Public Protection Committee on 22 October</p>
Conservation and Advisory Working Party	Updates the Terms of Reference	<p>Updates the Terms of Reference</p> <p>Deletes</p> <ul style="list-style-type: none"> • Conservation Area Consent • Planning Policy Statement 5
Employment Committee	Unchanged	

Constitution & Member Support Working Group	Unchanged	
Joint Negotiating and Consultation Group (Member/Officer Working Group)	Updated to reflect the terms of the Trade Union Recognition Agreement	Adds new Terms of Reference to reflect the agreed position in the Trade Union Recognition Agreement which explains the role of the JNCC and expands the list of issues the JNCC will consider

A copy of the updated Terms of Reference with tracked changes is appended to this report at Appendix A.

4. **Reasons for Proposed Solution**

- 4.1 To update the Terms of Reference to reflect the latest legislative requirements, best practice and changes in the Councils Governance arrangements.
- 4.2 CIPFA has recently updated its practical guidance on the function and operation of Audit Committees in Local Authorities. This represents best practice for Audit Committees in Local Authorities throughout the UK. Appendix B of the Guidance sets out suggested Terms of Reference for Local Authorities and it is recommended that this replaces the current Terms of Reference for the former Audit and Risk Committee. The Terms of Reference are very comprehensive and so lengthy in comparison to the original wording but as they are considered to be best practice it seems sensible to recommend their adoption. The Standards Committee Terms of Reference have been added and a separate Hearings Panel established to look at complaints under the Code of Conduct.
- 4.3 The terms of reference for the Licensing and Public Protection Committee have been amended to specify the detailed matters which are delegated to the Licensing Sub Committee.
- 4.4 The JNCC Terms of Reference have been amended to reflect the terms of the recently negotiated Trade Union Recognition Agreement which was entered into in March 2019.

5. **Options Considered**

- 5.1 There is an option to do nothing but this would mean continuing to work with Terms of Reference which are out dated which is not good practice and unhelpful to both officers and elected members.

6. **Legal and Statutory Implications**

- 6.1 All local authorities are required to have a written Constitution which must be kept under regular review and publicised. Any amendments to the Constitution require the approval of full Council.

7. **Equality Impact Assessment**

- 7.1 Where any equality impact has been identified it has been addressed.

8. **Financial and Resource Implications**

8.1 No significant additional resources will be required in relation to the recommendations.

9. **Major Risks**

9.1 That the Terms of Reference do not reflect up to date legal requirements and /or best practice resulting in challenge to Council decisions and/or reputational damage.

10. **Sustainability and Climate Change Implications**

10.1 There are no direct implications.

11. **Key Decision Information**

11.1 This is not a key decision which requires inclusion on the Cabinet Notice of Decisions/ Forward Plan.

12. **Earlier Cabinet/Committee Resolutions**

The previous meeting of the Working Group requested a review of Appendix 1 of the Constitution.

13. **List of Appendices**

13.1 Appendix A - draft Terms of Reference for Council, Committees, sub Committees & Working Parties of the Council with tracked changes

14. **Background Papers**

CIPFA Audit Committees Practical Guidance for Local Authorities and Police 2018 Edition

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APPENDIX A

RESPONSIBILITIES OF THE COUNCIL

By law there are functions which only the Council can deal with. They largely relate to the budget, to overarching policy and regulatory matters. The Cabinet is not allowed to decide in those areas, although it may give its views on the budget and policy framework. The Council may delegate the decision making in most (but not all) matters to a committee or officer (but not an individual Member) on such terms as it wishes, including terms as to onward delegation.

	FUNCTION	EXERCISED BY
(1)	All matters of any nature whatsoever which are not Executive Functions	Full Council except as set out in the Scheme of Delegation to committees and officers

Matters which have not or cannot be delegated and are therefore the responsibility of Full Council:

1. Electoral

- (a) Appointing a Returning Officer for local government elections
- (b) Dividing the constituency into polling districts
- (c) Exercising Powers in respect of holding elections
- (d) Appointing an Electoral Registration Officer
- (e) Making decisions concerning district boundaries, electoral divisions, wards or polling districts and the location of polling places-

2. Constitutional

- (a) Adopting and ~~clarifying~~ changing the Constitution (except for consequential changes to be made by the Monitoring Officer as set out at Section 15.2 of the Constitution)
- (b) Appointing and removing the Leader of the Council and to receive his or her scheme of delegation for executive functions
- (c) Appointing and removing the Mayor, Deputy Mayor and Chairs and Vice Chairs of committees
- (d) Agreeing and/or amending the terms of reference of committees, deciding on their composition and making appointments to them subject to the Local Government (Committees and Political Groups) Regulations 1990. In the event of changes to political balance, the Chief Executive shall have the authority to amend the appointments to comply with the rules of political balance in accordance with the wishes of the Group Leaders
- (e) Approving the Scheme of Delegation to Officers

~~(d)~~(f) Approving the schedule of dates of meetings for Council

~~(e)~~(g) Adopting the Council's Code of Conduct ~~for elected members and the appointment of an Independent Person under the Localism Act 2011~~

~~(f)~~(h) To ~~agree and amend approve~~ the Council's policy framework (set out at Section 4 of the Constitution) ~~and the strategies and policies that sit within it: :~~

- Sustainable Community Strategy
- Corporate Plan ~~and Annual Performance Report~~
- Treasury Management Strategy
- Investment Strategy
- Commercial Strategy
- Capital Strategy
- Flexible Use of Capital Receipts Strategy
- Licensing Policy Statement
- Enforcement Strategy
- Food Law Enforcement Service Plan
- Gambling Statement of Principles
- Homelessness Strategy
- Development Plan documents (including the Local Plan and Interim Documents)
- Asset Management Plans
- Any other plan or strategy where the Council determines that any decision on its adoption or approval should be taken by it rather than the Cabinet

and to make decisions about any executive matter ~~in the discharge of an executive function~~ where the decision maker is minded to make in a manner which would be contrary to, or not wholly in accordance with, the policy framework

(g) Appointing representatives to outside bodies unless the appointment is an Executive function

~~(g)~~(i) Adopting ~~or reviewing~~ a Members' Allowances Scheme following advice from an independent remuneration panel

~~(h)~~(j) Changing the name of the area

~~(i)~~(k) To confer the title of Honorary Alderman or Freedom of the Borough

(l) Making, amending, revoking or enacting or adopting by-laws and promoting or opposing the making of local legislation or personal bills in Parliament.

~~(j)~~(m)

3. Financial Provision

- (a) The adoption, approval or amendment of an annual budget, any supplementary estimates and any plan or strategy for the control of the Council's borrowing or expenditure
- (b) Setting of Council Tax
- (c) The making of decisions about any matter in the discharge of an Executive function where the decision maker is minded to make it in a manner which would be contrary to or not wholly in accordance with the budget.

4. Service Provision

- (a) Authorising applications to the Secretary of State for the transfer of housing land
- (b) Considering matters referred to it by Cabinet, committee or in some other manner (but matters which are by law Cabinet functions cannot be determined by Council).
- (c) To make any decision not to issue a Casino Premises Licence within the Borough
- ~~(b)~~(d) To approve the adoption of Conservation Areas, Character Area Character Appraisals and Management Plans and Article 4 Directions

5. Reporting

- (a) Considering the Head of Paid Service's report in accordance with Section 4 of the Local Government and Housing Act 1989
- (b) Considering the Monitoring Officer's report in accordance with Section 5 of the Local Government and Housing Act 1989 and/or in respect of a finding of the Local Government Ombudsman
- (c) Approving any draft plans and strategies which require Ministerial approval
- (d) Considering the Chief Financial Officer's report in accordance with Section 115 of the Local Government and Finance Act 1988
- (e) Considering the external auditor's public interest report.

6. HR

- Functions relating to Health and Safety at Work (Part 1 of the Health and Safety at Work etc. Act 1974)
- Functions relating to Local Government Pensions (Regulations under the Superannuation Act 1972)
- Appointment/~~dismissal~~ of the Head of the Paid Service and the Monitoring Officer and Chief Finance Officer (s151 officer)

- Appointment/dismissal—Dismissal of the Head of Paid Service, of the Monitoring Officer and Chief Finance Officer (s151 Officer).> Before deciding whether or not to approve dismissal account must be taken of:
 - a. Any advice or recommendations of the Independent Persons
 - b. The conclusions of any investigation
 - c. The representations of the Officer
- To designate an officer to act as Monitoring Officer and an officer to act as Chief Finance Officer
- To approve the Council's Annual Pay Statement

7. **All other matters which by law must be reserved to the Council.**

- **To determine all other matters which must by law be reserved to the Council**

The above sets out those functions which have not or cannot be delegated by Council to its committees or officers.

Annex 1 sets out the statutory list of functions which are non-Executive.

Updated ~~September 2016~~ November 2019

APPENDIX 1 (ANNEX 2)

TERMS OF REFERENCE OF THE COMMITTEES, SUB-COMMITTEES AND WORKING PARTIES OF COUNCIL

COMMITTEE OF FULL COUNCIL

To determine any matter referred to it by the Mayor, the Council, Cabinet or any Committee of the Council and not otherwise reserved to Full Council. The Committee of Full Council is chaired by the Leader of the Council.

AUDIT AND **RISK-STANDARDS** COMMITTEE

Governance, Risk and Control

1. To review the council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.

2. To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.

3. To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.

4. To consider the council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.

5. To monitor the effective development and operation of risk management in the council.

6. To monitor progress in addressing risk-related issues reported to the committee.

7. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.

8. To review the assessment of fraud risks and potential harm to the council from fraud and corruption.

9. To monitor the counter-fraud strategy, actions and resources.

10. To review the governance and assurance arrangements for significant partnerships and collaborations.

Internal Audit

10. To approve the Internal Audit Charter.

Comment [CE1]: Numbers 1- 33 are suggested Terms of reference in the CIPFA Practical Guidance

11. To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.

12. To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.

13. To approve significant interim changes to the risk-based internal audit plan and resource requirements.

14. To make appropriate enquiries of both management and the Chief Internal Auditor to determine if there are any inappropriate scope or resource limitations.

15. To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments.

16. To consider reports from the Chief Internal Auditor on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:

a) Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work.

b) Regular reports on the results of the Quality Assurance and Improvement Programme.

c) Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.

17. To consider the Chief Internal Auditor's Annual report:

a) The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit.

b) The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.

18. To consider summaries of specific internal audit reports as requested.

19. To receive reports outlining the action taken where the Chief Internal Auditor has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.

20. To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.

21. To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.

22. To provide free and unfettered access to the Audit Committee Chair for the Chief Internal Auditor, including the opportunity for a private meeting with the committee.

External Audit

23. To support the independence of the external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments (PSSA) or the authority's auditor panel as appropriate.

24. To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.

25. To consider specific reports as agreed with the external auditor.

26. To comment on the scope and depth of external audit work and to ensure it gives value for money.

27. To commission work from internal and external audit.

28. To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

Financial Reporting

29. To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.

30. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Accountability Arrangements

31. To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.

32. To report to full council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

33. To publish an annual report on the work of the committee

34. To maintain an overview to ensure compliance with the Council's Constitution in respect of Procedure Rules in relation to Contracts and Financial Regulations and make recommendations to Council in consultation with the Monitoring Officer and Section 151 Officer for any amendments

Audit Activity

Comment [CE2]: Deleted as now replaced by the terms in the CIPFA Practical Guidance

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- ~~(1) To receive, review and approve, but not direct the annual Internal Audit plan, annual strategy, terms of reference and audit protocol~~
- ~~(2) To review quarterly Internal Audit progress reports and the main issues arising and to seek assurance that action has been taken where necessary~~
- ~~(3) To consider reports from Internal Audit on agreed recommendations not implemented within a reasonable timescale and to monitor the Council's response to ensure that this is acceptable~~
- ~~(4) To ensure that there are effective relationships between external and Internal Audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted~~
- ~~(5) To consider the Audit Manager's annual report and opinion, and the level of assurance Internal Audit can give over the Council's corporate governance arrangements~~
- ~~(6) To consider any reports dealing with the management or arrangements for the provision of the Internal Audit service.~~
- ~~(7) To ensure the Internal Audit section is adequately resourced and has appropriate standing within the Council~~
- ~~(8) To receive, review and approve but not direct the annual external audit plan.~~
- ~~(9) To consider the external auditor's annual audit and inspection letter, relevant reports to those charged with governance, delegating the consideration of such reports and any investigations to other committees as necessary~~
- ~~(10) To consider specific reports as agreed with the external auditor~~
- ~~(11) To monitor the Council's response to the external auditor's findings and the implementation of external audit recommendations.~~

Regulatory Framework

- ~~(1) To consider the internal control environment and the level of assurance that may be given as to its effectiveness, to include the review of the Annual Governance Statement and the recommendation to the Council of its adoption~~
- ~~(2) To satisfy itself that the Council's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it~~
- ~~(3) To monitor the effectiveness of the Council's risk management arrangements, including the actions taken to manage risks and to receive regular reports on risk management~~
- ~~(4) To review the effectiveness of corporate governance arrangements to ensure that the Council complies with best practice~~
- ~~(5) To monitor the effectiveness of the Council's policies and arrangements for anti-fraud, anti-corruption, bribery and anti-money laundering~~

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~~(6) To review any issue referred to it by the Chief Executive, Section 151 Officer, Monitoring Officer, Executive Director or any Council body~~

~~(7) To maintain an overview of the Council's Constitution in respect of Procedure Rules in relation to Contracts and Financial Regulations and make recommendations to Council in consultation with the Monitoring Officer and Section 151 Officer for any amendments~~

Comment [CE3]: Moved with slight wording change to 34

~~(8) To receive annual reports on exceptions and exemptions to the Council's Financial Regulations and Procedure Rules in Relation to Contracts.~~

Accounts

~~(1) To approve the Council's Statement of Accounts~~

~~(2) To consider the external auditors report to those charged with governance on issues arising from the audit of the accounts.~~

Other Areas

(35) To consider reports from external inspectors (for example Office of the Surveillance Commissioner, Health and Safety Executive)

(36) To receive reports from the Corporate Health and Safety Officer

(37) To receive reports in respect of the Council's Treasury Management arrangements.

Standards

Comment [CE4]: 38 – 45 & 47 are moved from the former Standards Committee Terms of Reference

(38) To promote and maintain high standards of conduct by Members

(39) To monitor the operation of the Members' Code of Conduct

(40) To advise the Council on the adoption or revision of the Members' Code of Conduct

(41) To oversee the effectiveness of the Council's procedures for investigating and responding to complaints of breaches of the Members' Code of Conduct

(42) To interview and make recommendations to Council on the appointment of Independent Person(s) in accordance with the requirements of the Localism Act 2011

~~(43) To deal with complaints of alleged breaches of the Code of Conduct which the Monitoring Officer, in consultation with the Independent Person(s), considers warrant detailed consideration and to make final recommendations thereon~~

Comment [CE5]: Now to be dealt with by a Hearings Panel of 3 as a Sub Committee of the Audit and Standards Committee – rather than the full Committee sitting to hear complaints

(44) To advise, train or arrange to train Members and Independent Person(s) on matters relating to the Members' Code of Conduct

(45) To consider requests from Members to grant dispensations from being precluded from participation in a meeting (see **Appendix 18 Annex 4 Dispensations Process & Form**)

Comment [CE6]: New power to appoint a Hearing panel in the event of an investigation under the Code of Conduct

(46) To appoint a sub-committee to act as a Hearing Panel of 3 Members drawn from the

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committee on a politically proportionate basis to conduct hearings and make decisions on allegations under the Code of Conduct. (Terms of Reference for the Hearings Panel are below.)

(47) To maintain an overview of complaints handling and Local Government Ombudsman investigations.

Audit and Standards Sub Committee

Hearing Panel

The Hearing Panel may be convened by the Monitoring Officer when required:

(1) To conduct local hearings and make decisions on allegations following investigation of a complaint under the Code of Conduct

(2) To make decisions on allegations where the Monitoring Officer considers it appropriate to refer the initial complaint to the Panel for determination

(3) The Panel will seek and take into account the views of an Independent Person appointed under the Localism Act 2011 before making a decision on any allegation which has been investigated

Comment [CE7]: Sets out Terms of reference for a Hearing Panel to conduct local hearings and to determine initial complaints where the Monitoring Officer considers a referral is appropriate

Comment [CE8]: This is required by the Localism Act 2011

PLANNING COMMITTEE

- (1) To exercise all the Council's powers and duties as the district planning authority for its area in accordance with the Town and Country Planning Acts, and other planning legislation. This includes amongst other things the following:

The control of development including:

a) determining applications for planning permission, consent or approval

~~b)~~ b) determining whether or not planning permission is required

~~b)c)~~ determining prior approvals

~~e)d)~~ control of advertisements

~~e)e)~~ determining applications for certificates of lawfulness

~~e)f)~~ issuing certificates of appropriate alternative development

~~f)g)~~ authorising or otherwise in accordance with the Town and Country Planning General Regulations, the carrying out of development by the Council or by others on the Council's land.

~~g)h)~~ determining proposals in relation to the Development Plan Documents

The enforcement of planning control:

Landscape and building conservation and enhancement including:

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- a) the designation and enhancement of conservation areas
 - b) listed building control and enforcement
 - c) the offering of grants towards the repair and maintenance of listed buildings
 - d) tree preservation
 - e) derelict land reclamation.
- (2) To exercise the Council's powers and duties under the Building Regulations including:
- (i) the passing and rejection of plans;
 - (ii) determining applications to relax the Regulations;
 - (iii) regularising and enforcing compliance with the Regulations.

(3) To consider and comment on issues of Planning policy to the Council.

LICENSING AND PUBLIC PROTECTION COMMITTEE

The Licensing & Public Protection Committee will be held in two parts, the first part as a Licensing Committee and the second part as a Public Protection Committee.

Note: When determining hackney carriage and private hire licences the committee shall follow the procedure set out ~~in bold text at paragraph 5~~ below.

1. Licensing Committee ÷

To deal with all matters under the Licensing Act 2003 and Gambling Act 2005 delegated from Full Council including:

- (1) With the exception of the Councils Licensing policy statements under the Licensing Act 2003 and Gambling Act 2005 (upon which it will advise), the licensing committee shall from time to time determine its policy relating to licensing matters after it has consulted with such parties as the law may require and/or whom it considers to be appropriate and it shall cause that policy to be published.
- (2) The Licensing Committee may, from time to time, establish conditions to the extent permitted by the law governing the administration of licensing matters, the conduct and behaviour of licence holders and for technical requirements and specifications, licensed premises and vehicles.
- (3) The Committee shall have delegated powers to consider all applications for licenses or permissions issued on behalf of the Council, including attaching conditions thereto, to consider and determine all applications for review, continuation, transfer, variation,

renewal, suspension, closure orders, forfeiture or revocation of all licenses and permissions issued by or on behalf of the Council, including attaching conditions thereto and to consider appeals against terminations or tenancy at will.

(4) The Committee shall, from time to time, receive reports on the cultural, economic and tourism impact of its work and it shall from time to time, as required by law or as it considers appropriate, make reports of its activity to Cabinet, overview and scrutiny committee and Planning Committee.

(5) The Committee shall have the delegated powers to set all relevant fees and charges under the Licensing Act 2003, Gambling Act 2005, Scrap Metal Act 2013 and in respect of Sexual Entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982

(4)(6) The Committee may from time to time and to the extent permitted by the law, delegate any of its functions in paragraph 3 above to a body comprising of not less than 3 elected members drawn from members of the committee, to be known as a ~~licensing panel (sub-committee)~~, Licensing sub –committee a quorum for such ~~panel to sub committee~~ being three members. The committee may establish more than one ~~panel-sub-committee~~ and membership ~~of the panel(s)~~ may be rotated as necessary amongst members of the Committee. Terms of Reference for the Licensing sub – committee are at paragraph 2 below.

(7) The Committee may from time to time and to the extent permitted by the law, delegate any of its functions in paragraph 3 above, to be discharged by an Executive Director. The Executive Director may delegate such powers, duties, responsibilities and functions as he considers appropriate, and to the extent permitted by the law, to officers of the Council.

2. . Licensing Sub- Committee

Except for all matters of Policy and the setting of fees, to undertake all licensing functions, powers and duties conferred by the Licensing Act 2003 and Gambling Act 2005 including the following:

Licensing Act 2003

Where representations on the following applications have been received and not withdrawn to determine applications:

- a) For personal licences
- b) For premises licences and club premises licences
- c) For variation of premises licences and club premises certificates
- d) For transfer of premises licences

In addition the Sub – Committee will:

e) Review premises licences and club premises certificates

f) Determine Police or Environmental Health objections to temporary event notices

Gambling Act 2005

Where representations on the following applications have been received and not withdrawn, to determine applications:

a) For Premises Licences

b) For Variation of Premises Licences

c) For Transfer of Premises Licences

d) For a Provisional Statement

e) For Club Gaming or Club Machine Permits

f) For the cancellation of Club Gaming or Club Machine Permits

In addition the Sub Committee will:

g) Decide whether to give a counter notice to a temporary use notice

h) Take action under Section 202 where the review is heard by the Committee

i) Exercise its power to register pool betting operating licences

j) Exercise its power to grant track betting licences

k) Exercise its power to grant gaming and betting machine licences

l) Exercise its power to register societies wishing to promote lotteries

m) Exercise its power to issue premises licences and to receive temporary use notices

2.3. Public Protection Committee

The Public Protection Committee will have the following roles and functions:

a. To exercise the powers and duties of the Council in relation to licensing and registration functions.*

a.b. To undertake the setting of all fees and charges in respect of hackney carriages and private hire vehicles under the Local Government (Miscellaneous Provisions) Act 1976

b.c. To exercise and perform the powers and duties of the Council in relation to the following matters:

NB: Taxi driver, vehicle and operator licenses and issues will be dealt with separately by a **Public Protection Sub-Committee (see below for terms of reference)**

(1) **Food Safety and Control**

To ensure that all food prepared, manufactured, processed and sold within the Borough is produced in safe and hygienic conditions.

(2) **Occupational Health and Safety**

To ensure that persons working in premises which fall within the area of responsibility of the Borough Council, do so in a safe and healthy environment.

(3) **Infectious Disease Control**

To control and prevent the spread of specified infectious diseases.

(4) **Water Supply**

To ensure that all residents in the Borough are provided with a constant supply of wholesome and potable water.

(5) **Swimming Baths**

To monitor and control the quality of bathing water.

(6) **Health Education and Promotion**

To promote awareness of health matters to residents of the Borough.

(7) **Animal Welfare**

To ensure that, where animals are bred, boarded, sold or used in any other way, they are cared for in a humane manner.

(8) **Pest Control**

To control infestations within the Borough by rats and mice, to remedy the existence of verminous premises, persons or articles, and to control insect pests of public health significance in premises.

(9) **Sunday Trading**

To implement the Sunday Trading Act 1994.

(10) **Atmospheric Pollution Control**

To protect and improve local air quality management including statutory nuisances and the pollution prevention control regime and Local Air Quality monitoring and management.

(11) **Nuisance**

To protect the local environment by the control of public and statutory nuisances including noise sources and the promotion of awareness of the need to create or allow Nuisance including excessive noise.

(12) **Anti-Social Behaviour (ASB)**

To control anti-social behaviour and to determine Public Spaces Protection Orders.

(13) **Control of Dogs**

To promote responsible dog ownership within the Borough.

(14) **Asbestos Removal**

To eliminate environmental hazards associated with asbestos.

(15) **Contaminated and Derelict Land (including Landfill Sites)**

To ensure that material identified as being present on land in the Borough do not cause a hazard to health or nuisance to neighbouring properties and that any development provides a safe and healthy environment for occupation and use; and to promote the reclamation of derelict land.

(16) **Pollution Monitoring**

To identify the presence of pollutants within the environment both generally and in relation to specific sources.

(17) **Environmental Impact Assessments**

To assess potential environmental impacts from new developments in the Borough.

(18) **Environmental Enforcement**

To prevent the unauthorised and improper disposal of waste within the Borough and enviro-crime activities.

(19) **Housing**

To review housing conditions throughout the Borough and initiate action in relation to nuisance disrepair, improvement, clearance and demolition; and to administer renovation grants.

(20) **Camping and Caravan Site**

To control camp and caravan sites.

(21) **Licensing and Registration**

To exercise powers and duties in relation to all licensing and registration excluding those matters which relate to the Licensing Act 2003 and the Gambling Act 2005 delegated to the Licensing Committee.

To discharge any other function where an officer has decided not to exercise their delegated authority and has referred the matter to the Public Protection Committee for determination.

3-4. Public Protection Sub-Committee

The Public Protection Sub Committee will have the following roles and functions:

To exercise the powers and duties of the Council in relation to Hackney Carriage and Private Hire functions in relation to the following matters:

(1) **Hackney Carriage and Private Hire**

- a. To determine an application for:
 - b. a new licence,
 - c. a renewal licence or;
 - d. enforcement of a licence
- (2) To determine an application for a Driver's licence, an operator's licence, or a proprietor's vehicle licence where an officer has determined that these applications are not in compliance with the Council's Policy and has decided not to exercise their delegated authority and referred the matter to the Public Protection Sub Committee.
- (3) To discharge any other function referred by the Public Protection Committee including making representations to the Public Protection Committee in connection with the discharge of its functions.

4.5. PROCEDURE TO BE FOLLOWED BY PUBLIC PROTECTION AND PUBLIC PROTECTION SUB-COMMITTEE IN DETERMINING HACKNEY CARRIAGE AND PRIVATE HIRE LICENCES

- (1) The Chairman will open the proceedings by stating the nature of the matter which is to be considered (first application/renewal/suspension/revocation), whether the proceedings concern a vehicle, drivers' or operators' licence (in the case of Private Hire Cars) or a driver's or vehicle licence (in the case of Hackney Carriages) and the name of the applicant or licence holder.
- (2) The Chairman will introduce him/herself and the members of the committee, the Clerk to the committee and any other officer present.
- (3) The Chairman will ask the officers to confirm whether or not the formal requirements in respect of the matter to be considered have been complied with. In the case of a proposed suspension or revocation of a licence, refusal to renew or a new licence application, the Chairman will ask the Licensing Officer to confirm whether or not the requisite 5 days' prior notice has been served on the licence holder.
- (4) If satisfied as to the formal requirements, the matter under consideration will then be outlined by the Licensing Officer.
- (5) The committee will consider the merits of the application or proposed suspension/revocation and the report of the officers. The committee may ask the officers for clarification of any points in issue.
- (6) The Chairman will then invite the applicant or licence holder to make any representations. The applicant or licence holder may make his/her representations personally or through a representative, who shall first identify him/herself.
- (7) The Chairman and other members of the committee may ask the applicant or license holder questions and points of clarification.
- (8) The applicant or licence holder, his/her representative (if any) and any officer present (with the exception of the Lawyer and the Clerk to the committee) shall withdraw.

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- (9) The members of the committee consider their decision. If any further clarification or information is required from the applicant or licence holder or any officer, all parties will be recalled.
- (10) All parties will be recalled for the announcement by the Chairman of the committee's decision.
- (11) The committee's decision will be confirmed in writing by the Proper Officer.
- (12) At any point in this procedure, the committee may pass a resolution excluding the press and public from the meeting on the basis that, if they were to remain, there may be disclosure of exempt information (information relating to the private or business affairs of a particular person).

STANDARDS COMMITTEE

Comment [CE9]: Deleted as no longer a separate committee. Moved to Audit & Standards Committee

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

- ~~(4) Promoting and maintaining high standards of conduct by Members~~
- ~~(5) Monitoring the operation of the Members' Code of Conduct~~
- ~~(6) Advising the Council on the adoption or revision of the Members' Code of Conduct~~
- ~~(7) To oversee the effectiveness of the Council's procedures for investigating and responding to complaints of breaches of the Members' Code of Conduct~~
- ~~(8) To interview and make recommendations to Council on the appointment of Independent Person(s) in accordance with the requirements of the Localism Act 2011~~
- ~~(9) To deal with complaints of alleged breaches of the Code of Conduct which the Monitoring Officer, in consultation with the Independent Person(s), considers warrant detailed consideration and to make final recommendations thereon~~
- ~~(10) To advise, train or arrange to train Members and Independent Person(s) on matters relating to the Members' Code of Conduct~~
- ~~(11) To consider requests from Members to grant dispensations from being precluded from participation in a meeting~~
- ~~(12) To oversee, review and make any recommendations on the effectiveness and operation of the Constitution and any of the provisions of it~~
- ~~(13) An overview of complaints handling and Local Government Ombudsman investigations.~~

Comment [CE10]: Deleted altogether as this is now undertaken by the Constitution & Member Support WG

CONSERVATION ADVISORY WORKING PARTY

- (1) To provide a view to the Authority on proposals which may affect the historic environment and in particular on applications for planning permission, listed building consent, ~~conservation area consent~~ and advertisement consent which would, in the Authority's opinion, affect either the character and appearance of a Heritage Asset or its setting, whether designated or not (meaning a part of the historic environment that

Comment [CE11]: No longer exist

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is seen to have significance because of its historic, archaeological, architectural or artistic interest, ~~as defined in Planning Policy Statement 5).~~

Comment [CE12]: PPS5 has been repealed

- (2) To provide a view to the Authority on conservation policy, the preparation of schemes of enhancement and the production of design guides for Conservation Areas.
- (3) To provide a view to the Authority on applications for historic buildings grants.

EMPLOYMENT COMMITTEE

The Employment Committee will consist of the seven members nominated by Group Leaders in accordance with the 'Rules to ensure political balance' set out in Annex 1 to Appendix 7 of Part 4 of the Council's constitution.

- (1) To establish and appoint members to an Appointments sub-committee to act as an appointment panel for Executive Directors and Heads of Service
- (2) Subject to any statutory requirements, to advise Council on the appointment of Statutory Officers and to make arrangements to establish and appoint members to an Appointments sub-committee to act as an interview panel for Statutory Officer appointments
- (3) To oversee matters of discipline or competence in respect of the Head of Paid Service, the Monitoring Officer and the Section 151 Officer (the Statutory Officers) *
- (4) To establish and appoint members to a sub-Committee as an Investigation and Disciplinary Panel (IDP), comprising three members, (and such relevant Independent Persons as may be required by the Local Authorities (Standing Orders) (England) (amendment) Regulations 2015), to hear disciplinary and conduct issues relating to a Statutory Officer in accordance with relevant HR Procedures. The Chairman of the IDP shall have authority to issue a notice of dismissal in the event of a decision by full Council to dismiss the Statutory Officer *
- (5) To establish and appoint members to a sub-Committee as an Appeals Panel, comprising three members, to hear an appeal by a Statutory Office against a decision of the IDP falling short of a recommendation to dismiss, in accordance with relevant HR procedures
- (6) Other than those matters delegated to the Section 151 Officer, to discharge the Council's responsibilities in relation to local government pensions matters
- (7) To review organisational structure where the changes involve compulsory redundancies that do not have the agreement of existing staff and/or where any such changes require additional budget, which require approval of Cabinet and/or full Council;
- (8) To determine appeals (excluding any Statutory Officers) in relation to:
 - Dismissals whether arising by virtue of misconduct or otherwise
 - Disciplinary action
 - Grievances
 - Selection for redundancy
 - Grading

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*Note: When discharging the functions marked * above, the Committee must include a member of The Cabinet.*

CONSTITUTION AND MEMBER SUPPORT WORKING GROUP

The membership of the Constitution and Member Support Working Group shall consist of one Member from each of the political Groups represented on the Council. The Group will be supported by the Chief Executive and Monitoring Officer. The Working Group will be chaired by the Portfolio Holder with the responsibility for Member development and shall be a member of the Working Group in an ex officio capacity in addition to the Group nominee.

The remit of the Working Group shall be:

- (1) To keep under review the Council's Constitution and to make recommendations for revising the Constitution to the Chief Executive and Monitoring Officer in accordance with the provisions in Section 15 of Part 2 of the Council's Constitution.
- (2) To act as a reference group for changes to the Constitution proposed by the Monitoring Officer in accordance with the provisions in Section 15 of Part 2 of the Council's Constitution.
- (3) To keep under review the Council's recommendations for the support and development of elected Members and to make recommendations to the Head of Governance and Partnerships concerning improvements to and developments of these arrangements.
- (4) To monitor the outcome of all Member training and development activity and to make recommendations for improvements which would increase the effectiveness and/or efficiency of such programmes.

JOINT NEGOTIATING AND CONSULTATION COMMITTEE (JNCC) (Member/Officer Working Group)

Comment [CE13]: Terms of Reference replaced by the wording in the TU recognition Agreement

- (1) To act as the consultation body between employer and employee representatives on matters of HR policy and practice in accordance with the Trade Union Recognition Agreement dated March 2019.
- (2) Trade Union membership will be those Trade Unions which the Council recognise for collective bargaining purposes, currently being GMB, GMB (APEX) and UNISON.

(3) The functions of the JNCC include:-

a) Information

The Council undertakes to supply the Trade Union with the necessary information for it to carry out effective consultation and negotiation. This will include the Council's employment policies and procedures and proposed amendments and additions. The Council will additionally supply information on recent and probable developments of the Council and its economic situation.

b) Consultation

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To have proper consultation with Trade Unions and employees to enable feedback and discussion before decisions are taken concerning matters directly affecting the interests of the employees as set out below.

The Council will additionally consult on the current situation, structure and probable development of employment in the undertaking, especially any threat to employment, and on changes in work organisation or contractual relations, including redundancies and transfers.

Whilst consultation will always be conducted with the aim of achieving agreement, for avoidance of doubt, consultation does not require both parties to agree.

c) Negotiation

To negotiate and seek to reach agreement on all issues pertaining to the matters set out under below.

Whilst negotiation will always be conducted with the aim of achieving agreement, for avoidance of doubt, negotiation does not require both parties to agree.

4. The following policy matters will be the subject of consultation and negotiation:-

- a) terms and conditions of employment and physical conditions of work;
- b) engagement or non-engagement or termination or suspension of employment or the duties of employment, of one or more workers
- c) allocation of work or the duties of employment as between workers or groups of workers
- d) matters of discipline
- e) a worker's membership or non-membership of a trade union
- f) facilities for union representatives
- g) machinery for negotiation or consultation and other procedures (including grievance procedures) including recognition of the right of a trade union to represent workers in such negotiation or consultation.

5. The Head of Paid Service and Head of HR to be represented at all meetings to advise the committee and to keep a record of proceedings.

~~(1) To act as the consultation body between Employer and Employee representatives on matters of HR policy and practice.~~

~~(2) To act as the negotiating body between Employer and Employee representatives on the following matters within approved budgets:-~~

~~Terms and conditions of employment
Hours of work
Holiday and sickness arrangements~~

~~(3) The Head of Paid Service and Head of HR to be represented at all meetings to advise the committee and to keep a record of proceedings.~~

(4)(6) The following protocol to be followed when the committee is meeting as part of a formal collective bargaining procedure:-

Protocol for collective bargaining

The collective bargaining process

Collective bargaining is recognised to consist of a number of distinct stages

Commencement

The Employer or Employee side may put forward a proposal in writing to the other. Any such proposal would normally be accompanied by a commentary setting out the case for the proposed change.

Preparation

Representatives of both sides prepare for the negotiation by considering the proposal which has been put forward. All those who are to be involved in the discussions should have a good knowledge and understanding of the issues to be discussed and should have conducted appropriate background research and evaluation before the first meeting takes place.

Preliminaries

Both parties agree the ground rules that will guide the negotiations and the lead negotiator for each site is identified and agreed. The Portfolio Holder for HR will Chair the negotiations. There should also be clarification of any issues identified in the preparation stage. The timescales for the negotiations should also be set out.

Formulation

At this stage the person chairing the negotiation puts forward an opening statement to summarise the matter(s) to be resolved. The lead negotiator from each side shall then set out their initial proposals. This is often called a brainstorming phase because each side puts forward their options that lead to the refinement of proposals and counter-proposals.

Bargain

The formal negotiation begins at this stage and each side will need to persuade the other of the merits of their proposal or counter-proposal. This stage may go on for a period of time and may involve a number of meetings until final agreement is reached. Where an amicable agreement cannot be reached it may be appropriate to include third party involvement to assist in arbitration.

Settlement

This is the final stage of the process where both sides agree a common solution to the matter(s) which has been negotiated. The final agreement will normally be set out in a written collective agreement document which is signed by both sides.

Documentation

Minutes of meetings

A record of all meetings shall be kept and shall be signed by the Chairman after confirmation by both lead negotiators that this is an accurate record of the discussion.

Records of meetings shall be confidential unless it is agreed otherwise by the Chairman and the lead negotiators.

Proposals and counter-proposals

All proposals, and where they are developed counter-proposals, shall be in written form once they have been formulated but before they are negotiated upon. These shall be made available to both sides to ensure that discussions are based on a common understanding of the matters under consideration.

Conduct of meetings

The effective running of meetings is the responsibility of the chairman. All participants shall respect the role of the chairman.

Either side may request a recess to enable separate discussions by the sides to take place. Separate meeting facilities should be made available to facilitate this.

If the chairman considers that it would be helpful to the negotiations to have a recess to enable additional information to be sought or issues clarified by a person(s) not present in the meeting it shall be at the chairman's sole discretion to do this. Any similar requests made by other participants would not normally be denied. Any additional information provided shall be made available to all those participating in the negotiations.

It is expected that all matters discussed at meetings shall be confidential at all times.

Consultation

It may assist the process of collective bargaining for there to be consultation with staff affected by the proposals which are under consideration.

Any consultation shall be with all staff affected by the proposals and it is recognised that Trades Unions may wish to undertake consultation with their own members

Updated ~~September 2018~~ November 2019

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO

FULL COUNCIL

20 November 2019

1. **Report Title** **Amendments to the Scheme of Delegation for Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847**
- Submitted by:** **Interim Head of Legal & Monitoring Officer**
- Portfolio:** **Corporate and Service Improvement, People and Partnerships**
- Ward(s) affected:** **All**

Purpose of the Report

This report advises Council of the recent decision of the Licensing and Public Protection Committee in relation to amendments to the scheme of delegation in respect taxi and private hire licensing.

Recommendations

That Council approves the proposed amendments to the scheme of delegation at Appendix 4 of the Constitution as set out at paragraph 2.3 of Appendix A to the report

Reasons

Re- organisation of the services has resulted in taxi and private hire licensing services being moved to the Operational Services Directorate. The current scheme of delegation has been reviewed and the proposed changes reflect the organisational structure, take account of the changes approved in the Taxi Policy 2019 and will ensure consistent decision making.

1. **Background**

- 1.1 At the recent meeting of the Licensing and Public Protection Committee on the 22 October 2019 members considered and recommended amendments to the current scheme of delegation. A copy of the report to the Committee is appended at Appendix A.

2. **Issues**

- 2.1 A review of the arrangements for dealing with taxi and private hire licensing has been undertaken to determine whether matters can be dealt with more effectively.
- 2.2 In summary the proposed changes to the current scheme of delegation include:
 - Change from Executive Director (Regeneration and Development) to Executive Director (Operational Services)
 - Officer delegations for suspension, refusal and revocation of Hackney Carriage and Private Hire Vehicles

- Inclusion of enforcement action with immediate effect for clarification
- Inclusion of issuing warnings as introduced in the Taxi Policy 2019

3. **Proposal**

- 3.1 The proposed changes are set out in full at paragraph 2.3 of the attached report at Appendix A

4. **Reasons for Proposed Solution**

- 4.1 To enable Committee to determine applications in the most effective and practical manner.
- 4.2 To ensure that the Council continues to provide safe transport for those wishing to use Private Hire and Hackney Carriage Vehicles.

5. **Options Considered**

- 5.1 Other options include delegating all functions to the Committee, or to Officers but the current proposal is recommended as the most appropriate solution in the circumstances.

6. **Legal and Statutory Implications**

- 6.1 All local authorities are required to have a written Constitution which must be kept under regular review and publicised. Any amendments to the Constitution require the approval of full Council.
- 6.2 S101 of the Local Government Act 1972 allows the Council to arrange for a Committee, sub Committee, an officer or another local authority to carry out its powers and duties.

7. **Equality Impact Assessment**

- 7.1 Meetings will be undertaken in accordance with the Human Rights Act 1998.

8. **Financial and Resource Implications**

- 8.1 No significant additional resources will be required in relation to the recommendations.

9. **Major Risks**

- 9.1 That the Scheme of Delegation does not reflect up to date legal requirements and /or best practice resulting in challenge to Council decisions and/or reputational damage.

10. **Sustainability and Climate Change Implications**

- 10.1 There are no direct implications.

11. **Key Decision Information**

- 11.1 This is not a key decision which requires inclusion on the Cabinet Notice of Decisions/ Forward Plan.

12. **Earlier Cabinet/Committee Resolutions**

Council Meeting 4 June 2014

Council Meeting 16 May 2018

13. **List of Appendices**

- 13.1 Appendix A – Amendments to Scheme of Delegation for Local Government (Miscellaneous Provisions) Act 9176 & Town Police Clauses act 1847 – 22 October 2019 Licensing & Public Protection Committee

14. **Background Papers**

None

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

PUBLIC PROTECTION COMMITTEE

Date 22nd October 2019

Report Title: Amendments to Scheme of Delegation for Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847

Submitted by: Head of Environmental Health Services

Portfolio: Finance & Efficiency

Ward(s) affected: All

Purpose of the Report

To amend and approve the scheme of delegation in respect of taxi and private hire licensing.

Recommendations

That Committee support and recommends to Constitution and Member Support Working group and Council the proposed amendments to the scheme of delegation.

Reasons

A reorganisation of services has resulted in the taxi and private hire licensing services being moved from Regeneration and Development directorate to Operational Services directorate. A review of the current scheme of delegation has been undertaken and changes proposed to make decisions for private hire and hackney carriages consistent, to reflect the changes to the organisational structure and to take into account provisions included in the approved Taxi Policy 2019.

1. Background

- 1.1 Public Protection Committee has many delegated functions including the power to make decisions in respect of hackney carriage and private hire drivers, vehicles and operators which are not in full compliance with the Council's current 'Taxi and Private Hire Policy 2019'
- 1.2 Officers of the Council also have specifically delegated functions for the issuing of licences which are in compliance with the Council's current 'Taxi and Private Hire Policy 2019'. In addition officers have delegated responsibilities to undertake some enforcement activities.
- 1.3 A review of the scheme of delegation has been undertaken to take into account the organisational changes but to also review whether some of these matters can be dealt with more effectively and timely with amendments to the scheme of delegation.

2. Issues

- 2.1 Committee business particularly in respect of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 is increasing and therefore a review of arrangements has been undertaken to determine whether these matters can be dealt with more effectively and in a timely manner with specific delegated responsibilities.
- 2.2 In summary the proposed changes include:

- 2.2.1 Change from Executive Director (Regeneration and Development) to Executive Director (Operational Services)
- 2.2.2 Officer delegations for suspension, refusal and revocation of Hackney Carriage and Private Hire Vehicle licenses.
- 2.2.3 Inclusion of enforcement action with immediate effect for clarification.
- 2.2.4 Inclusion of issuing warnings as introduced in the Taxi Policy 2019.

2.3 The proposed scheme of delegation is detailed in the table below:

Line Number	Legislation	Function	Exercised by	Proposed Change, October 2019
	Local Government (Miscellaneous Provisions) Act 1976 (including Town Police Clauses Act 1847)			
443		Power to approve Council policy with regard to hackney carriage and private hire drivers, vehicles and operators	Public Protection Committee	
444		Power to grant, renew and transfer Private Hire and Hackney Carriage: Vehicle licenses, Driver licenses and Operators in compliance with policy	Executive Director (Regeneration and Development) or Head of Environmental Health	Executive Director (Operational Services) or Head of Environmental Health
445		Power to grant, renew and transfer Private Hire and Hackney Carriage: Vehicle licenses, Driver licenses and Operators NOT in compliance with policy	Public Protection Committee or Public Protection Sub Committee	
446		Power to suspend, refuse or revoke Hackney Carriage vehicle licences	Executive Director (Regeneration and Development) or Head of Environmental Health Head of Recycling, Waste & Fleet	Public Protection or Public Protection Sub Committee or Executive Director (Operational Services) or Head of Environmental Health Head of Recycling, Waste & Fleet, Licensing Administration Team Manager & Operations Manager Environmental Services Team Manager
	NEW	Power to suspend, refuse or revoke Hackney Carriage vehicle licences with immediate effect	Executive Director (Regeneration and Development) or Head of Environmental Health Head of Recycling, Waste & Fleet	Public Protection or Public Protection Sub Committee or Executive Director (Operational Services) or Head of Environmental Health Head of Recycling, Waste & Fleet, Licensing Administration Team Manager & Operations Manager, Environmental Services Team Manager
447		Power to suspend Hackney Carriage driver licences	Executive Director (Regeneration and Development) or Head of Environmental Health or Public Protection	Public Protection or Public Protection Sub Committee or Executive Director (Operational Services) or Head of Environmental Health
448		Power to refuse or revoke Hackney Carriage driver licences	Public Protection or Public Protection Sub Committee or Executive Director (Regeneration and Development) or Head of Environmental Health	Public Protection or Public Protection Sub Committee or Executive Director (Operational Services) or Head of Environmental Health
	NEW	Power to refuse or revoke Hackney Carriage driver	Public Protection or Public Protection Sub Committee	Public Protection or Public Protection Sub Committee

		licences with immediate effect	or Executive Director (Regeneration and Development) or Head of Environmental Health	or Executive Director (Operational Services) or Head of Environmental Health
449		Power to suspend Private Hire, driver licenses and operators licenses	Public Protection or Public Protection Sub Committee or Executive Director (Regeneration and Development) or Head of Environmental Health	Public Protection or Public Protection Sub Committee or Executive Director (Operational Services) or Head of Environmental Health
450		Power to refuse or revoke Private Hire driver licenses and operators licenses	Public Protection or Public Protection Sub Committee or Executive Director (Regeneration and Development) or Head of Environmental Health	Public Protection or Public Protection Sub Committee or Executive Director (Operational Services) or Head of Environmental Health
	NEW	Power to refuse or revoke Private Hire driver licenses and operators licenses with immediate effect	Public Protection or Public Protection Sub Committee or Executive Director (Regeneration and Development) or Head of Environmental Health	Public Protection or Public Protection Sub Committee or Executive Director (Operational Services) or Head of Environmental Health
451		Power to refuse, suspend or revoke Private Hire Vehicle licenses	Public Protection or Public Protection Sub Committee Executive Director (Regeneration and Development) or Head of Environmental Health and/or Head of Recycling, Waste & Fleet Services	Public Protection or Public Protection Sub Committee or Executive Director (Operational Services) or Head of Environmental Health and/or Head of Recycling, Waste & Fleet Services, Licensing Administration Team Manager & Operations Manager, Environmental Services Team Manager
	NEW	Power to refuse, suspend or revoke Private Hire Vehicle licenses with immediate effect	Public Protection or Public Protection Sub Committee Executive Director (Regeneration and Development) or Head of Environmental Health and/or Head of Recycling, Waste & Fleet Services	Public Protection or Public Protection Sub Committee or Executive Director (Operational Services) or Head of Environmental Health and/or Head of Recycling, Waste & Fleet Services, Licensing Administration Team Manager & Operations Manager, Environmental Services Team Manager
452		Hackney Carriage fares and numbers.	Public Protection Committee	
453		Power to authorise prosecution proceedings for Hackney Carriage and Private Hire vehicles, drivers and Operators	Executive Director (Regeneration and Development) or Head of Environmental Health Services	Executive Director (Operational Services) or Head of Environmental Health Services
454		Provision of information and production of documents Hackney Carriages and Private Hire vehicles Sect. 50, 53, 53A & 56	Executive Director (Regeneration and Development) or Head of Environmental Health Services	Executive Director (Operational Services) or Head of Environmental Health Services
455		Return of identification plate or disc on revocation or expiry of licence etc., Sect.58. Sect 60 & 61 Sect 62 & 62A.	Executive Director (Regeneration and Development) or Executive Director (Operational Services) or Head of Environmental Health Services	Executive Director (Operational Services) or Head of Environmental Health Services
456		Inspection and Testing of Hackney Carriages and Private Hire vehicles for fitness. Sect. 68	Executive Director (Regeneration and Development) or Executive Director (Operational Services) or Head of Environmental Health Services or Head of Recycling, Waste & Fleet Services	or Executive Director (Operational Services) or Head of Environmental Health and/or Head of Recycling, Waste & Fleet Services, Licensing Administration Team Manager & Operations Manager, Environmental

				Services Team Manager
457		Action in respect of obstruction of authorised officers	Executive Director (Regeneration and Development) or Head of Environmental Health Services	Executive Director (Operational Services) or Head of Environmental Health Services
	NEW	Issue a warning to dual driver		Executive Director (Operational Services) or Head of Environmental Health Services, Licensing Administration Team Manager, Environmental Services Team Manager

3. **Options Considered**

- 3.1 There are numerous options available in respect to the scheme of delegation. These would include:
- 3.1.1 Delegate all functions to Public Protection and Sub Committees;
 - 3.1.2 Delegate all functions to Officers;
 - 3.1.3 Create delegations for Committee, Sub-committee and Officers commensurate with roles and responsibilities.

4. **Proposal**

- 4.1 That Committee support and recommends to the Constitution and Member Support Working group and Council the proposed amendments to the scheme of delegation.

5. **Reasons for Preferred Solution**

- 5.1 To enable committee to determine applications in the most effective and practical manner.
- 5.2 To ensure that the council continue to provide safe transport for those wishing to use private hire and Hackney Carriage vehicles.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 6.1 In line with the Council's objectives –
- Local services that work for local people
 - Growing our people and places
 - A healthy, active and safe borough
 - A town centre for all

7. **Legal and Statutory Implications**

- 7.1 The Local Government Act 1972, section 101 allows the Council to arrange for a Committee, sub-committee or an officer or another local authority to carry out its powers and duties.

8. **Equality Impact Assessment**

- 8.1 The meetings will be undertaken to accord with the Human Rights Act 1998, Article 6(1) guarantees an applicant a fair hearing and Article 14 guarantees no discrimination.

9. **Financial and Resource Implications**

- 9.1 There will be no direct financial costs associated with the proposals.

10. **Major Risks**

10.1 There are no major risks associated with this report

11. **Sustainability and Climate Change Implications**

11.1 Not applicable

12. **Key Decision Information**

12.1 Not applicable

13. **Earlier Cabinet/Committee Resolutions**

11.1 Council meeting 4th June 2014

11.2 Council Meeting 16th May 2018

14. **List of Appendices**

14.1 None

15. **Background Papers**

15.1 Not applicable

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO

FULL COUNCIL

20 November 2019

1. **Report Title** Delegations to Planning Committee High Speed Rail (West Midlands- Crewe) Act

Submitted by: Interim Head of Legal & Monitoring Officer

Portfolio Planning and Growth

Ward(s) affected: All

Purpose of the Report

This report advises Council of two recent decisions of the Planning Committee in relation to new delegations to the Committee to deal with future applications once the High Speed Rail (West Midlands- Crewe) Bill has been enacted.

Recommendations

That the Terms of Reference for the Planning Committee be amended to include the following additional delegations:

- a. To determine all applications pursuant to Schedule 17 of the High Speed Rail (West Midlands- Crewe) Act (once the Act comes into force)
- b. To determine all applications pursuant to Clause 21 Schedule 18 of the High Speed Rail (West Midlands- Crewe) Act (once the Act comes into force)

Reasons

Delegations to the Planning Committee form part of the Council's Constitution and so require full Council approval.

1. **Background**

- 1.1 The High Speed Rail (West Midlands – Crewe) Bill will grant planning permission for the construction of a high speed railway between West Midlands to Crewe as the second phase of the proposal. Once enacted the Act will require the nominated undertaker (ie the party who will construct the railway) to obtain further approvals from the Local Planning Authorities along the route for certain matters which relate to the design and construction of the railway.

2. **Issues**

- 2.1 The Council resolved to become a Qualifying Authority at its meeting on 24 July 2019 and has now signed the necessary Planning Memorandum. As a result it needs to agree a process to deal with any relevant applications.

3. **Proposal**

3.1 At its meeting on the 5 November 2019 the Planning Committee considered two separate reports which dealt with any applications pursuant to Schedule 17 of the Act and those under clause 21 of Schedule 18 of the Act (once in force).

3.2 Both reports are appended as Appendices to this report and set out the background in detail.

3.3 In both instances Members resolved that the Committee would deal with any relevant applications rather than delegate the power to the Executive Director (Commercial Development and Economic Growth)

4. **Reasons for Proposed Solution**

4.1 It is essential that the Council has an appropriate process in place to ensure applications can be dealt with in a timely manner before any applications are received.

5. **Options Considered**

5.1 A number of alternative options were identified and rejected for the reasons set out in both reports.

6. **Legal and Statutory Implications**

6.1 The proposed amendment to the scheme of delegation requires the approval of full Council.

7. **Equality Impact Assessment**

7.1 Where any equality impact has been identified it has been addressed.

8. **Financial and Resource Implications**

8.1 HS2 will impose a new burden on the Council however the Council will be fully reimbursed under a SLA with HS2 Limited..

9. **Major Risks**

9.1 If a Qualifying Authority repeatedly fails to expedite requests for approval or seriously fails to act in accordance with the Planning memorandum the Secretary of State may remove the status of QA.

10 **Sustainability and Climate Change Implications**

10.1 There are no direct implications.

11. **Key Decision Information**

11.1 This is not a key decision which requires inclusion on the Cabinet Notice of Decisions/ Forward Plan.

12. **Earlier Cabinet/Committee Resolutions**

The previous meeting of the Working Group requested a review Access to Information Procedure Rules.

13. **List of Appendices**

- 13.1 Appendix A – Delegated Authority to Determine Applications Pursuant to Schedule 17 of the High Speed Rail (West Midlands- Crewe) Bill - Planning Committee 5 November 2019

Appendix B – Delegated Authority to Determine Applications Pursuant to Schedule 18 of the High Speed Rail (West Midlands- Crewe) Bill - Planning Committee 5 November 2019

- 14. **Background Papers**

- 14.1 Report to Council dated 24 July 2019 – Qualifying Authority

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO PLANNING COMMITTEE**

05 November 2019

Report Title: Delegated Authority to Determine Applications Pursuant to Schedule 17 of the High Speed Rail (West Midlands – Crewe) Bill (act following its assent)

Submitted by: Executive Management Team

Portfolios: Leader of the Council – Corporate and Service Improvement, People and Partnerships

Ward(s) affected: Whitmore, Maer and Madeley

Purpose of the Report

To seek the agreement of the Council to the proposed revision to the Scheme of Delegation to the Head of Development Management to ensure the expedient determination of applications submitted pursuant to Schedule 17 of the High Speed Rail (West Midlands-Crewe) Bill.

Recommendation

To amend the Scheme of Delegation to the Head of Development Management, as set out in Part 3 of the Council's Constitution, to insert the following application type within the list of delegated application types set out in Appendix 4 Item 10 of the art A of the Constitution.

"To determine all application pursuant to Schedule 17 of the High Speed Rail (West Midlands-Crewe) Bill" (act following its assent).

And that this is exercised by

"Executive Director (Commercial Development and Economic Growth)"

Reasons

1. As applications pursuant to Schedule 17 of the High Speed Rail (West Midlands-Crewe) Bill are not planning applications, that they are not identified within the Scheme of Delegation as being dealt with through the Council's Planning team.
2. To ensure that the applications pursuant to Schedule 17 of the High Speed Rail (West Midlands-Crewe) Bill can be dealt with under delegated authority.

1. **Background**

- 1.1 High Speed Rail (West Midlands – Crewe) Bill (The Bill) will grant planning permission for the construction of a high speed railway between West Midlands to Crewe being the second phase of the proposal. This is pursuant to High Speed Rail (London to West Midlands) Act 2017 (The Act) which grants the planning permission for the construction of a high speed railway between London and the West Midlands.
- 1.2 The Act requires the nominated undertaker (the party or parties who will construct the railway) to obtain the further approval of the Local Planning Authorities along the route for certain matters

relating to the design and construction of the railway. Approval is required for plans and specifications; matters ancillary to development; road transport; and for bringing into use.

- 1.3 The provisions and the procedure for obtaining further approvals are set out in the Schedules to the Act; Schedule 17 (Conditions of Deemed Consent) refers specifically to the approval of details reserved by the conditions attached to the deemed planning permission.
- 1.4 Local Planning Authorities have been offered a choice of a wider or narrower range of control over the approval of details. Authorities who desired to exercise the wider range of control must first become a Qualifying Authority and give satisfactory undertakings concerning the handling of planning matters; these are set out in the HS2 Planning Memorandum which sets out the rules of conduct and the administrative arrangements that both the Qualifying Authority and the nominated undertaker will adhere to during the construction of the railway.
- 1.5 The Council resolved to become a Qualifying Authority on 24th July 2019. The Planning Memorandum has been signed by the deadline of 25th October 2019 and the Council will become a Qualifying Authority when the High Speed Rail (West Midlands – Crewe) (Qualifying Authorities) Order 2017 comes into effect following assent of the Bill.
- 1.6 A Qualifying Authority is responsible for issuing approvals in respect of details of the design and appearance of key structures and other elements of the scheme, but that responsibility does not extend to the principle of the construction which is permitted by the Act itself. Structures and features that the appropriate Qualifying Authority will be able to consider details for include:
 - o Buildings and vehicle parks
 - o Terracing
 - o Cuttings
 - o Embankments and other earthworks
 - o Fences and walls
 - o Telecommunication masts
 - o Power take-off compounds
 - o Artificial lighting
 - o Bridges and viaducts
 - o Borrow pits and waste disposal sites
- 1.7 A Qualifying Authority can only refuse to approve plans or specifications or impose conditions on the specific grounds set out in Schedule 17, these are :-
 - i) That the design or external appearance of the works ought to be modified, and is reasonably capable of being so modified,
 - a) to preserve the local environment or local amenity;
 - b) to prevent or reduce prejudicial effects on road safety or the free flow of traffic in the local area; or
 - c) to preserve a site of archaeological interest or nature conservation value,
 - ii) That the development ought to, and could reasonably be carried out elsewhere on land within the development's permitted limits, (i.e. on the land identified within The Act to which the planning permission granted has effect).

2. **Issues**

- 2.1 By agreeing to become a Qualifying Authority the Council has accepted obligations concerning the process and the timeliness with which it will determine applications submitted under Schedule 17 of the Bill.

- 2.2 It will be expected to determine these applications within the eight week period prescribed in the Act, this begins on the day the application is received by the Council. This differs from applications submitted under the Town & Country Planning Act where the statutory eight week period only begins after the application is accepted as a valid application by the Council.
- 2.3 It is necessary to ensure the Council has in place a decision making process that will ensure the timely determination of these applications.
- 2.4 If the Council fails to determine an application within the prescribed period, the application will be deemed to have been refused and the applicant may then appeal to the Secretary of State who will then determine the application.
- 2.5 If a Qualifying Authority repeatedly fails to expedite requests for approval or seriously fails to act in accordance with the Planning Memorandum the Secretary of State may order that an authority shall cease to have the powers of a Qualifying Authority.

3. **Proposal**

It is therefore recommended that the Scheme of Delegation be amended to include within the list of applications where the determination is delegated to the Head of Development Management, the following additional category of application namely :-

“Applications pursuant to Schedule 17 of the High Speed Rail (West Midlands - Crewe) Act 2019 when it has gained assent.”

4. **Reasons for Proposed Solution**

It is essential the Council has in place an appropriate process to ensure Schedule 17 applications can be determined in a timely manner before applications are received. The inclusion of this category of application within the current scheme of delegation will allow for such applications to be determined timely and expediently.

5. **Options Considered**

- 5.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1

- 5.2 To not include Schedule 17 applications within the scheme of delegation to the Head of Development Management. This is not recommended.
- 5.3 If an application can only be determined at a meeting of the Planning Committee, the 4 weekly cycle for meetings will increase the risk an application may not be determined within the prescribed statutory timescale. This would then result in an appeal process for non-determination which would add to the burden on Council resources.
- 5.4 If the Council should repeatedly fail to determine applications within time or otherwise seriously fail to act in accordance with the Planning Memorandum, the Secretary of State may order that the Council authority shall cease to have the powers of a Qualifying Authority.

Option 2

- 5.5 Include the Schedule 17 applications within the scheme of delegation and treat it as if it were a planning application with the same call-in provisions. This is not recommended.
- 5.6 The uncertainty of an application being called-in or not along linked with the 4 weekly cycle for meetings will increase the risk an application may not be determined within the prescribed statutory timescale. This would then result in an appeal process for non-determination which would add to the burden on Council resources.
- 5.7 Again, if the Council should repeatedly fail to determine applications within time or otherwise seriously fail to act in accordance with the Planning Memorandum, the Secretary of State may order that the Council authority shall cease to have the powers of a Qualifying Authority.

Option 3

- 5.8 To invoke other constitutional change to establish a process whereby Councillors will convene as and when required to determine an application submitted under Schedule 17. This is not recommended.
- 5.9 This would increase the burden on Councillors. It is not recommended at this time given the number of applications or the frequency of submissions is not clear, the full impact cannot therefore be assessed.

6. Legal and Statutory Implications

The proposed amendment to the scheme of delegation requires the approval of full council and will enable the expedient and expeditious determination of applications submitted relating to the HS2 railway. This will reduce the risk associated with persistent non-fulfilment of the obligations set out within the Planning Memorandum which could result in the removal of the Council's status as a Qualifying Authority and the consequent loss of the opportunity to influence the final design of railway works.

7. Equality Impact Assessment

N/A

8. Financial and Resource Implications

HS2 will pose a new burden for Council services. A Service Level Agreement will be negotiated with HS2 Ltd to ensure that the Council is fully reimbursed for the additional work generated through the consents and approvals process.

9. Major Risks

If the Council fails to determine an application within the prescribed period, the application will be deemed to have been refused and the applicant may then appeal to the Secretary of State who will then determine the application.

If a Qualifying Authority repeatedly fails to expedite requests for approval or seriously fails to act in accordance with the Planning Memorandum the Secretary of State may order that an authority shall cease to have the powers of a Qualifying Authority.

10. Sustainability and Climate Change Implications

N/A

11. Key Decision Information

N/A

12. **Earlier Cabinet/Committee Resolutions**

The Council resolved to become a Qualifying Authority on 24th July 2019.

13. **List of Appendices**

None.

14. **Background Papers**

Report to Council dated 24th July 2019 where it was agreed to become a Qualifying Authority.

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**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO PLANNING COMMITTEE**

05 November 2019

Report Title: Delegated Authority to Determine Applications Pursuant to Schedule 18 of the High Speed Rail (West Midlands – Crewe) Bill (act following its assent)

Submitted by: Executive Management Team

Portfolios: Leader of the Council – Corporate and Service Improvement, People and Partnerships

Ward(s) affected: Whitmore, Maer and Madeley

Purpose of the Report

To seek the agreement of the Council to the proposed revision to the Scheme of Delegation to the Head of Development Management to ensure the expedient determination of applications submitted pursuant to Schedule 18 of the High Speed Rail (West Midlands-Crewe) Bill.

Recommendation

To amend the Scheme of Delegation to the Head of Development Management, as set out in Part 3 of the Council's Constitution, to insert the following application type within the list of delegated application types set out in Appendix 4 Item 10 of the Constitution.

"To determine all application pursuant to Clause 21 Schedule 18 of the High Speed Rail (West Midlands-Crewe) Act 2019" (once the Act comes into force).

And that this is exercised by

"Executive Director (Commercial Development and Economic Growth)"

Reasons

1. Applications pursuant to Schedule 18 of the High Speed Rail (West Midlands-Crewe) Act 2019 will not be planning applications and they are not identified within the Scheme of Delegation as being dealt with through the Council's Planning team.
2. To ensure that the submissions pursuant to Schedule 18 of the High Speed Rail (West Midlands-Crewe) Act 2019 (when it comes into force) can be dealt with under delegated authority.

1. **Background**

1.1 High Speed Rail (West Midlands – Crewe) Act 2019 (the 2019 Act) will grant planning permission for the construction of a high speed railway between West Midlands to Crewe being the second phase of the proposal. This is pursuant to High Speed Rail (London to West Midlands) Act 2018 (the 2018 Act) which grants the planning permission for the construction of a high speed railway between London and the West Midlands.

1.2 Under the provisions of Schedule 18 of the 2019 Act, the requirements for HS2 to apply for Listed Building consent for the identified structures or buildings are disapplied. (the structures and

buidings are not delisted). Instead, the Secretary of State for Transport enters into undertaking requirements with the Council in the form of Heritage Agreements (HA).

- 1.3 These agreements are in the form of deeds relating to the works proposed. These are currently with the Council in draft form for consultation with the Conservation Officer. The purpose of the consultation is not to agree the principle of the buildings or structures affected which is already determined by the route of HS2 but moreover, to agree the broad details within Heritage Method Statements within the HA providing a guide as to appropriate levels of detail required to be submitted in the submission stage to ensure that the works to be undertaken are acceptable. The Heritage Method Statements also agrees who should be consulted as part of the process.
- 1.4 As these are deed agreements, once these details have been agreed, the HA will be reported to Full Council in November 2019.
- 1.5 As stated above, pursuant to the Heritage Agreement, there is a requirement that, prior to the commencements of works on site, the nominated body submits the specific details of works required by the Heritage Method Statement and it is the submission of these details which are the subject of this report.
- 1.6 Once these detailed applications are made, the Council has 8 weeks to either approve or refuse them. However, as part of the process, amenity groups are consulted which means the Council cannot determine the application in the first 6 weeks unless a response is received earlier.
- 1.7 The Council cannot reasonably withhold permission but can seek amendments. The nominated body can either agree with the amendments or appeal the decision.
- 1.8 Should the Nominated Undertaker be unhappy with the refusal, amendment or should the Council fail to determine the application in the 8 week time period the application can be the subject of an appeal to the Secretary of State.

2. **Issues**

- 2.1 By signing the deed the Council has accepted obligations concerning the process and the timeliness with which it will determine applications submitted under Schedule 18 of the Bill.
- 2.2 It will be expected to determine these applications within the eight week period prescribed in the Bill, this begins on the day the application is received by the Council. This differs from applications submitted under the Town & Country Planning Act where the statutory eight week period only begins after the application is accepted as a valid application by the Council.
- 2.3 It is necessary to ensure the Council has in place a decision making process that will ensure the timely determination of these applications.
- 2.4 If the Council fails to determine an application within the prescribed period, the application can appeal to the Secretary of State who will then determine the application.

3. **Proposal**

- 3.1 It is therefore recommended that the Scheme of Delegation be amended to include within the list of applications where the determination is delegated to the Head of Development Management, the following additional category of application namely :-

“Applications pursuant to Schedule 18 of the High Speed Rail (West Midlands - Crewe) Act 2019 when it comes into force.”

4. **Reasons for Proposed Solution**

It is essential the Council has in place an appropriate process to ensure Schedule 18 applications can be determined in a timely manner. The inclusion of this category of application within the current scheme of delegation will allow for such applications to be determined timely and expediently.

5. **Options Considered**

- 5.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1

- 5.2 To not include Schedule 18 applications within the scheme of delegation to the Head of Development Management. This is not recommended.
- 5.3 If an application can only be determined at a meeting of the Planning Committee, the 4 weekly cycle for meetings will increase the risk that an application may not be determined within the prescribed statutory timescale, particularly given the 6 week consultation period for these submissions. This would then result in an appeal process for non-determination which would add to the burden on Council resources.
- 5.4 Where the Council fails to make a decision in time the application will be appealed against for non-determination and the Council loses control of the decision making process

Option 2

- 5.5 Include the Schedule 18 applications within the scheme of delegation and treat them as if they were a planning application with the same call-in provisions. This is not recommended.
- 5.6 The uncertainty of an application being called-in or not and this process being linked to the 4 weekly cycle for meetings will increase the risk that an application may not be determined within the prescribed statutory timescale. This would then result in an appeal process for non-determination which would add to the burden on Council resources.
- 5.7 Again, where the Council fails to make a decision in time the application will be appealed against for non-determination and the Council loses control of the decision making process

Option 3

- 5.8 To invoke other constitutional change to establish a process whereby Councillors will convene as and when required to determine an application submitted under Schedule 18. This is not recommended.
- 5.9 This would increase the burden on Councillors. It is not recommended at this time, given that the number of applications or the frequency of submissions is not clear. The full impact cannot therefore be assessed.

6. **Legal and Statutory Implications**

The proposed amendment to the scheme of delegation requires the approval of full Council and will enable the expedient and expeditious determination of applications submitted relating to the

HS2 railway. This will reduce the risk associated with persistent non-fulfilment of the obligations set out within the deed agreement and loss of control of the decision making process if appeals are made against non-determination of the applications.

7. **Equality Impact Assessment**

N/A

8. **Financial and Resource Implications**

HS2 will pose a new burden for Council services. A Service Level Agreement will be negotiated with HS2 Ltd to ensure that the Council is fully reimbursed for the additional work generated through the consents and approvals process.

9. **Major Risks**

If the Council fails to determine an application within the prescribed period, the application will be deemed to have been refused and the applicant may then appeal to the Secretary of State who will then determine the application.

10. **Sustainability and Climate Change Implications**

N/A

11. **Key Decision Information**

N/A

12. **Earlier Cabinet/Committee Resolutions**

The Council resolved to become a Qualifying Authority on 24th July 2019.

13. **List of Appendices**

None.

14. **Background Papers**

None.

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL
EXECUTIVE MANAGEMENT'S REPORT TO THE
COUNCIL

20 November 2019

1. **Report Title** Freedom of the Borough Protocol
- Submitted by:** Interim Head of Legal & Monitoring Officer- Caroline Elwood
- Portfolio:** Corporate and Service Improvement / Finance and Resources
- Ward(s) affected:** All

Purpose of the Report

The report recommends that Council adopts a Protocol in relation to granting Freedom of the Borough

Recommendations

That Council approves the Protocol and guidelines attached at Appendix A to the report

Reasons

To clarify the criteria which will be applied to any nominations.

1. **Background**

- 1.1 The Council does not currently have any guidance or criteria which would be applied to the consideration to any nominations for Freedom of the Borough.

2. **Issues**

- 2.1 S249 of the Local Government Act 1972 empowers a local authority to confer the "Freedom of the Borough" to persons of distinction who have in the opinion of the Council rendered eminent service to the Borough.

3. **Proposal**

- 3.1 Party Leaders have reviewed the matter and approved in principle the attached Protocol.

4. **Proposed Solution**

- 4.1 To provide guidance on the process to accept nominations and apply criteria for future applications.

5. **Options Considered**

- 5.1 There is an option to do nothing but this would mean continuing to work without any criteria or guidance on the process.

6. **Legal and Statutory Implications**

- 6.1 The process is governed by s249 of the Local Government Act 1972 which sets out the requirement for a 2/3 majority to approve any application.

7. **Equality Impact Assessment**

- 7.1 Not applicable.

8. **Financial and Resource Implications**

- 8.1 No significant additional resources will be required in relation to the recommendations.

9. **Major Risks**

- 9.1 There are no major risks associated with this report

10. **Sustainability and Climate Change Implications**

- 10.1 There are no direct implication.

11. **Key Decision Information**

- 11.1 This is not a key decision which requires inclusion on the Cabinet Notice of Decisions/ Forward Plan.

12. **Earlier Cabinet/Committee Resolutions**

Not applicable.

13. **List of Appendices**

- 13.1 Appendix A – Protocol for determining whether the Freedom of the Borough should be conferred.

14. **Background Papers**

- 14.1 There are no background papers for consideration/inclusion.

Newcastle- under- Lyme Borough Council Appendix A

Protocol for determining whether the Freedom of the Borough should be conferred

1.0 Introduction

- 1.1 Section 249 of the Local Government Act 1972 empowers a local authority to confer the “Freedom of the Borough” to persons of distinction, who have in the opinion of the Council, rendered eminent services to the Borough.
- 1.2 The Freedom of the Borough is the highest honour that the Council can grant. It should only be used sparingly and awarded on merit to exceptional persons. It should not be given too often. The overriding principle must be that this award should be made on merit based on significant achievement or exceptional service.
- 1.3 Awards should not be for a job well done or because someone has reached a particular level. They should be awarded because an individual has made a contribution which is exceptional and they stand out ‘head and shoulders’ above others in what has been achieved.
- 1.4 Normally honours are awarded to those men or women who have been raised, lived or worked or who have a strong connection with the Borough, and have demonstrated excellence in their field and in the process raised the profile and enhanced the reputation of the Borough either nationally or internationally.
- 1.5 Freedom of the Borough will not be awarded to serving Councillors.

2.0 Background

- 2.1 It is important that, if a nomination to confer an Honorary Freedom is to be considered, that all Members of the Council are in possession of sufficient facts in order to make a decision as to whether the honour should be conferred. There may be instances where there are strongly held views for and against and these need to be addressed as far as possible in advance of an Extraordinary Council meeting called for the purpose as a unanimous decision is clearly desirable in the circumstances (although the Act actually requires a 2/3 majority of those present and voting).
- 2.2 The title of Honorary Freeman/woman is a mark of distinction upon the person whom the Council wishes to honour. Conferring the Freedom of the Borough does not grant the title holder any privileges, legal rights or responsibilities. For example, they have no rights to attend Council or Committee meetings,

nor can they be paid an allowance. However, it is a symbolic connection with the Council and it is hoped that those who are awarded this honour will support the Office of the Civic Mayor at civic events and functions.

3.0 Criteria for conferring the Freedom of the Borough

- 3.1 It is in the interests of transparency and public confidence that the Council adopts clear criteria for conferring the Freedom of the Borough. It is proposed that one or more of the following are used as the criteria for the award:

The person has:

- demonstrated exceptional achievement or service to the community which is outstanding in its field;
- made a real difference in their field of work or their community;
- brought distinction to the Borough or enhanced its reputation;
- given outstanding military service;
- demonstrated innovation, entrepreneurship or exceptional business acumen which has delivered benefits to the Borough;
- evidenced exceptional charitable service to the Borough, through either a national or locally based charity;
- evidenced exceptional voluntary service to the Borough or any part of it or community within it;
- carried the respect of and inspired his/her peers;
- significantly improved the lot of those less able to help themselves or suffering disadvantage;
- promoted community cohesion;
- contributed to the Borough beyond the call of duty in a way that stands out above others.

- 3.2 Only in exceptional circumstances should consideration be given to the admission of organisations.

- 3.3 As this is the highest honour that a Borough Council can grant, it should be used sparingly and should not be given too often in order to preserve its status and value. Accordingly, other than in exceptional circumstances, no more than one nominee will be taken forward annually and there is no obligation to approve any of the nominations.

4.0 Procedure to be adopted on receipt of a Motion to confer the Freedom of the Borough

- 4.1 Nominations for persons to be granted the Freedom of the Borough may be made by any Elected Member to Chief Executive on the appropriate form (see Appendix 1). Each nomination must contain the support of at least 10 other

Council members and the relevant Group Leaders should be advised of the proposed nomination as a courtesy.

- 4.2 It is important that any nomination remains confidential and that the nominee is unaware that he or she is being nominated since not all nominations may be successful.
- 4.3 A member of the public who might wish to suggest a potential nominee may do so by contacting their local ward councillor making a full and clear case for the potential nomination. The Ward Councillor must then follow the process of completing the appropriate form and obtaining the support of at least 10 other Council members.
- 4.4 On receipt of the Nomination Form the Chief Executive will ensure that sufficient information has been provided on the form. Full reasons why the person should be considered must be included in detail.

5.0 The Freedom of the Borough Panel

- 5.1 The Chief Executive will convene a Panel of each of the Leaders of the Political Groups on the Council (Deputy Leaders can substitute if their Leader is unable to attend), with relevant officers to consider:
 - whether the nomination meets the agreed criteria
 - whether there is sufficient support for the matter to go on to the Council for decision.
 - where there are several nominations which one, if any, should go forward to Council for approval
- 5.2 Other than in exceptional circumstances no more than one nominee will be taken forward annually and there is no obligation on the Panel to approve any of the nominations if they do not feel the criteria is fully met. Any nomination which has been unsuccessful can be reconsidered after 12 months and may be put back before the Panel by the relevant Elected Member who should recomplete the nomination process.

6.0 Extraordinary Council Meeting

- 6.1 Should the Freedom of the Borough Panel conclude that it is likely that there will be a two thirds majority voting in favour of a nomination, the Chief Executive will convene an Extraordinary meeting of the Council specifically for the consideration of the one item of business. This will normally be early in the New Year (January – March) to allow any ceremony to take place prior to the end of the current civic year.

- 6.2 At the Extraordinary meeting of the Council, there will be only one item of business and Chief Executive will submit a report setting out the matters considered by the Freedom of the Borough Panel and the recommendation of the Panel to Council to approve the nomination.
- 6.3 The resolution should recite the grounds upon which the recommendation is being made, and details of the public services rendered by the nominee should be included.
- 6.4 The Civic Mayor will take a vote on the recommendation of the Freedom Panel and a two-thirds majority of those present and voting is required. However a unanimous vote is customary and desirable in the circumstances.

(Note: abstentions do not count as a vote and required majority will be deduced from the number of Members actually voting on the item).
- 6.5 The Mayor will then immediately close the meetings.
- 6.6 A Meeting of full Council will normally immediately follow the extraordinary meeting

7.0 Ceremony (at a later date but usually by no later than April each year)

- 7.1 The Honorary Freeman will be presented with a scroll and their name inscribed in the Roll of Honorary Freeman Book which will then be signed and witnessed at a separate ceremony followed by a buffet.

Appendix 1. Nomination Form

Nomination for the Freedom of the Borough

I, Councillorwish to nominate the following person to be considered for the status of Freedom of the Borough of Newcastle-under- Lyme.

**Nominee.....
(NB please ensure this nomination is kept confidential from the nominee)**

I am aware that the following criteria need to be applied to the achievements of the nominee.

- demonstrated exceptional achievement or service to the community which is outstanding in its field;
- made a real difference in their field of work or their community;
- brought distinction to the Borough or enhanced its reputation;
- given outstanding military service;
- demonstrated innovation, entrepreneurship or exceptional business acumen which has delivered benefits to the Borough;
- evidenced exceptional charitable service to the Borough, through either a national or locally based charity;
- evidenced exceptional voluntary service to the Borough or any part of it or community within it;
- carried the respect of and inspired his/her peers;
- significantly improved the lot of those less able to help themselves or suffering disadvantage;
- promoted community cohesion;
- contributed to the Borough beyond the call of duty in a way that stands out above others.

I believe that they have met these criteria in the following way:

(Please continue overleaf or attach supporting evidence)

We the undersigned Councillors support this nomination for Freedom of the Borough:

NAME: SIGNATURE:	NAME: SIGNATURE:
NAME: SIGNATURE:	NAME: SIGNATURE:
NAME: SIGNATURE:	NAME: SIGNATURE:
NAME: SIGNATURE:	NAME: SIGNATURE:
NAME: SIGNATURE:	NAME: SIGNATURE:

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO COUNCIL

20 November 2019

Report Title: Great Crested Newt District Licensing Scheme

Submitted by: Executive Management Team

Portfolios: Planning and Growth

Ward(s) affected: All

Purpose of the Report

To seek the agreement of the Council to join the Staffordshire and Stoke-on-Trent Great Crested Newt District Licensing Scheme.

Recommendation

Newcastle-under-Lyme Borough Council signs a Memorandum of Understanding with NatureSpace Partnership to join the Staffordshire and Stoke-on-Trent Great Crested Newt District Licensing Scheme

Reasons

District Licensing removes all uncertainties and delays that arise from the existing licensing system as there is no need for newt surveys and no separate license application to Natural England offering developers a 'fast track' when faced with great crested newt management on development sites compared to the current licensing arrangements.

1. **Background**

Current process and issues

Great Crested Newts (GCN) receive a high level of protection under European¹ and UK² law and this can cause delays for developers and increase their costs at every stage of the process

Ecologists are also aware that in many cases the replacement habitat is poor, being not strategically located and often badly maintained post-development. This leads to populations of GCNs being lost or decreasing despite efforts and expense.

Due to pressure from the development industry, government has tasked Natural England (NE) with finding better ways of dealing with protected species.

General Licensing Policy

Natural England (NE) is changing the way protected species licensing works. Changes have already been brought to general policies so that there are four new policies that apply everywhere:

¹ The Conservation of Habitats and Species Regulations 2017 42. Schedule 2

² Wildlife and Countryside Act 1981 (as amended) 9 (4) (b) and (c) and 9 (5)

- Policy 1 - Greater flexibility when excluding and relocating European Protected Species (EPS) from development sites
- Policy 2 - Greater flexibility in the location of newly created habitats that compensate for habitats that will be lost
- Policy 3 - Allowing EPS to have access to temporary habitats that will be developed at a later date
- Policy 4 - Appropriate and relevant surveys where the impacts of development can be confidently predicted

The District Licensing Scheme

Following a pilot study in Woking in 2016, and experiences in the South Midlands in 2018, NE are in the process of rolling out the District Licensing Scheme ('the Scheme') where administrative areas are surveyed and modelled for species, and work done to improve habitats / populations in advance of development. The Local Planning Authority (LPA) is then licensed to consent development that affects GCNs in parallel to the planning process, avoiding the need for developers to go through the usual licensing process.

The Scheme is voluntary - developers can still opt to apply to NE for a GCN licence instead.

At first the Scheme will concentrate on GCNs, but this may go on to address other protected species, particularly bats.

2. **Issues**

GCNs are a material consideration in the determination of planning applications on a significant number of sites within the Borough and such an issue has, and will continue to have, an impact on the delivery of development. The Scheme ensures that the issue of the impact of development is appropriately addressed in advance of development proposals coming forward and such 'front loading' provides greater certainty and removes delays that arise from the existing licensing regime.

As this approach is still in its early stages there is a reputational risk arising from the Scheme.

3. **Proposal**

This is a proposal to sign a Memorandum of Understanding with NatureSpace Partnership to join the Staffordshire and Stoke-on-Trent Great Crested Newt District Licensing Scheme ('the Scheme')

The Scheme would offer developers a 'fast track' when faced with great crested newt management on development sites compared to the current licensing arrangements.

The Scheme, endorsed by NE and run by the NatureSpace Partnerships (a consortium of charities and commercial bodies), would apply across participating LPA in Staffordshire and Stoke-on-Trent (currently anticipated to be Staffordshire, Stoke-on-Trent, South Staffordshire, Stafford, Lichfield, East Staffordshire, Tamworth, Staffordshire Moorlands and Newcastle-under-Lyme).

Even with the Scheme in place developers can choose to pursue the current licensing arrangements instead if they so wish: survey (in April-May), report preparation, planning application, licence application to Natural England, habitat creation, fencing, trapping and relocation of great crested newts.

Under the Scheme, the participating LPA would be licensed to allow development that affects great crested newts where developers have contributed to creation of habitat elsewhere.

The Scheme is summarised as follows:

Phase 1 – the survey and computer modelling

Existing data and new data are used in computer models to predict where GCNs are most likely to be found across Staffordshire and Stoke-on-Trent. Further maps are produced to show where conservation activity would benefit GCNs most (conservation priorities mapping) and where development is most likely (using local plans and site allocation data.) Models are refined using local knowledge. An assessment of likely impact from development over the local plan period is undertaken by the NSP.

Phase 2 – the licence application

The information from models, the impact assessment and local advice from ecologists and others is used by the NSP to write a licence application for each LPA. The LPA signs this application and it then goes to Natural England.

Phase 3 – the licence

If a net gain in conservation for GCNs is expected, and all three of the licensing tests are met, NE approves the application and grants a 2-year licence to each LPA. The NSP and the Newt Conservation Partnership (NCP) enter into the legally binding contract with NE to deliver the scheme over 25 years, including habitat creation and maintenance and monitoring. NSP are responsible for all the reporting requirements under the licences, reporting to NE and each LPA at least annually, and applying for timely renewals of the licences, with permission from each authority.

The NSP will provide training for planning staff within each individual LPA once the licences have been granted to ensure all staff are aware of the scheme and the requirements.

Phase 4 – the initial habitat creation

The NSP fund a not-for-profit organisation, the Newt Conservation Partnership, to work with landowners to set up initial habitat creation for GCN. This may be on public or private land, as long as it is in appropriate areas for GCN conservation – largely within target areas according to the conservation model.

Phase 5 - operational

The NSP produce publicity material and promote the Scheme. LPAs are also expected to provide information regarding the Scheme.

Developers approach NSP with their proposals. The simplest situations will result in NSP issuing a certificate or report to the developer. The developer submits this to the planning authority with their planning application. The LPA under the terms of their licence has a requirement to check this certificate / report before issuing planning consent. They must also use standard planning conditions in respect to the Scheme because these are written into the licence from NE.

In more complex cases, a developer with an extant planning consent who wishes to join the Scheme, will have to apply to have conditions amended or varied through planning applications, in order to have the necessary conditions added.

In all cases, once planning consent has been granted (and provided a certificate from NSP has been provided by the developer) the LPA can then authorise the development under the district licence.

The NSP will keep each LPA (through the named contact point) fully appraised of all work under the Scheme. Reports can be requested by LPAs at any time and NSP will provide timely updates, as well as regular updates and opportunities for planning authority officers and members to find out more about the local conservation activities under the scheme.

Timescales

The Memorandum of Understanding (MoU) would need to be signed and returned by mid-November 2019. This is to enable NSP to let contracts and line up staff to work on the licence application process.

After the MoU is signed, the NSP would instigate the survey programme and convene further meetings with all LPAs to commence the partnership and ensure everyone is fully informed of progress.

Surveying must (because of the GCN breeding season) run throughout May for the Staffordshire scheme, and there is significant work to be done before this to determine survey locations (random stratified sampling) and then contact landowners for permission to visit and sample ponds and waterbodies.

Following survey and modelling, maps of future conservation status and GCN planning criteria would be produced by the NSP with the LPAs.

The remainder of 2020 would be used to refine models and the write licence applications. The Scheme would be expected to be available to developers and operational from early 2021.

It is intended that the application to NE to secure district licensing for each authority would be made towards the end of 2020. The Council would need to formally sign the licence application as the LPA at this stage.

Developers would be offered the option of using the Scheme from early 2021 onwards.

4. **Reasons for Proposed Solution**

District Licensing removes all uncertainties and delays that arise from the existing licensing system as there is no need for newt surveys and no separate license application to Natural England offering developers a 'fast track' when faced with great crested newt management on development sites compared to the current licensing arrangements.

5. **Options Considered**

The only option at this point in time is 'do nothing' whereby developers can only obtain a licence that enables development to take place through the existing licensing regime.

6. **Legal and Statutory Implications**

LPAs are under a duty to consider the impact of development on protected species including Great Crested Newts in the determination of planning applications. Development can't be granted planning permission, and licences won't be issued, unless any impacts on GCNs and their habitats are addressed through appropriate mitigation.

7. **Equality Impact Assessment**

N/A

8. **Financial and Resource Implications**

There would be no financial costs for the participating LPA as the NatureSpace Partnership would cover the cost of establishing the Scheme by undertaking to carry out survey work and computer modelling, prepare the licence application to Natural England, create the initial areas of habitat and cover costs, including the cost of employing a Great Crested Newt Officer required to check certificates and monitoring work. Thereafter developer contributions are expected to support the operation of the Scheme.

Staff time from the LPAs would be required to provide data, e.g. on allocations. Once the Scheme is operational (Phase 5 above), the LPAs receive contributions from the NSP to cover any new staffing resources required for checking certificates, issuing authorisations and monitoring work.

During the set-up of the Scheme and survey and modelling phases, it is envisaged that regular attendance at meetings / input of local knowledge will be required.

Beyond the initial work, developer contributions are expected to cover staff costs associated with the required GCN Officer Role via the NSP. The GCN Officer will be responsible for administration and monitoring of the Scheme once operational. Depending on demand this role could be part-time or shared with other LPAs. In the South Midlands Scheme, the NSP have been relaxed about the amount of time spent by the 'GCN Officer' on GCN work, allowing flexibility to deal with other casework; this is expected to continue (within reason). The NSP offer three models for staffing, all fully funded:

- a) Provide funding for LPAs to employ their own GCN Officer directly
- b) NSP employ the GCN Officers and place them on secondment with the LPAs,
- c) GCN Officers employed by a third party, such as the Staffordshire Wildlife Trust or similar. This model has not been used yet, but might work where a LPA has contracted ecology advice out (e.g. SMDC contract to Staffordshire Wildlife Trust currently)

The latter options avoid recruitment and employment liabilities for the LPAs.

Given current financial constraints and uncertainty, option (b) is favoured. This would enable us to ensure due diligence with regard to protected species and our planning functions, and also to take advantage of any flexibility in dealing with casework.

Uptake is expected to be slow in the early stages of the Scheme so the role of the GCN Officer for each LPA is likely to be part-time. Alternatively, the GCN Officer could be shared with other LPAs to create full-time posts.

The GCN Officer postholder/s will need to work alongside ecologists, but in close cooperation with planning officers. The role includes:

- a) checking reports and certificates
- b) ensuring the conditions are applied correctly
- c) issuing authorisations
- d) compliance checking.

Once GCN habitat has been created there is an ongoing need to monitor and maintain it. At present this would be undertaken by the NSP and the costs would be built into the initial developer funding. An endowment fund has been set up and is held by the not-for-profit NCP. The fund would support this aspect of long-term management of created habitat. The fund would also deal with the chance of the NSP ceasing to trade.

9. **Major Risks**

This approach is still in its early stages and is unpopular with some ecology professionals, who may be concerned about the Scheme. The fact that we would follow the South Midlands scheme, where LPAs played a strong role in shaping the model as 'critical friends' may help reconcile them.

The approach is likely to prove popular with developers, although the cost to them can appear high. With the NSP managing the income and certificates, it is expected that the process would become largely arm's length for the LPAs. This should avoid the perception that the Scheme has been designed to generate further income / improve our own land.

The public may be critical, and careful management of expectations and message will be needed, particularly where GCN are seen as a means of preventing development. However, this is no different from the current situation where developers put forward adequate mitigation and GCN cease to be a 'showstopper' for objectors to use.

10. **Sustainability and Climate Change Implications**

N/A

11. **Key Decision Information**

N/A

12. **Earlier Cabinet/Committee Resolutions**

None

13. **List of Appendices**

N/A

14. **Background Papers**

N/A

Classification: NULBC **UNCLASSIFIED**

STATEMENT OF THE LEADER OF THE COUNCIL TO FULL COUNCIL
20th NOVEMBER 2019

Submitted by: Councillor Simon Tagg

Portfolio: All

Wards affected: All

Purpose of the Report

To provide an update to Members on the activities and decisions of Cabinet, together with the Forward Plan.

Recommendation

That the statement of the Leader of the Council be received and noted.

Reasons

To update Council Members on the activities and decisions of the Leader and Cabinet and to allow questions and comments to be made on the Statement.

1. Cabinet Meetings

Since the last meeting of Full Council on 18th September 2019, Cabinet met on 16th October 2019 and 6th November, a summary of the Decisions taken is detailed below.

2. Draft Medium Term Financial Strategy 2020/21 – 2024/25

Cabinet endorsed the draft MTFS as a basis for consultation. The report set out the Council's four year spending and funding plans and is a framework for the development of the detailed budget for 2020/21 which will be agreed at the February Full Council meeting.

3. Commercial Strategy 2019/24

A new draft Commercial Strategy was approved setting out how the Council can continue to secure the delivery of high quality, value for money services for residents in future by being innovative and entrepreneurial.

This will involve the Council becoming more self-sustainable and a business-orientated organisation that generates service efficiencies and new income streams, using effective procurement processes, prudent investments and strategic asset development.

Potential investments could include renewable energy and a commercial loan portfolio. There is also a significant opportunity to capitalise on the Council's ability to borrow at historically very low rates and acquire income-producing investments.

Thinking and acting more commercially is key to the Council's approach to protecting valuable frontline services.

The new Strategy, building on the Council's already substantial commercial property portfolio, will be delivered by our new Executive Director – Commercial & Economic Growth, working closely with Members. It provides an overarching plan for future activities, ensuring consistency, and access to the expertise needed to drive forward this agenda within a context of robust risk management.

4. **Kidsgrove Sports Centre Update**

Following the Council's commitment to the re-provision of sports facilities, including swimming, in Kidsgrove, an all Party Cabinet Panel has been convened to consider the plans put forward by the Kidsgrove Sports Centre Community Group (CIO) for the refurbishment of the existing Sports Centre.

The Panel has recently visited the Centre site and received a presentation from a representative of the CIO on their proposals. Further work will now be carried out to validate and confirm the full cost estimates and lifecycle costs.

5. **Car Parking Strategy**

Cabinet agreed a new ten year town centre Car Parking Strategy, with the purpose of supporting traders and increasing footfall. Measures agreed include:-

- Launching a £1 after 1pm scheme for shoppers starting prior to Christmas.
- Reducing the cost of parking permits for businesses.
- Investing in a modern CCTV system for the Midway car park.
- Modernise payment methods for motorists, including an App.
- Working with the Business Improvement District (BID) to create a 'shoppers' car park on Goose Street.
- Provide electric charging points on all council-owned car parks.

6. **Rough Sleepers Initiative**

Cabinet agreed to support the commissioning of a Rough Sleeping Outreach Service with Stoke City Council.

The joint provision will continue the existing work of offering support and assistance to those who find themselves homeless.

A cross authority approach will allow a consistent standard of service across the conurbation and working collectively in a joined up approach meets the aims contained in the Council's Homelessness Strategy.

7. **Armed Forces Covenant – Sport and Leisure Card**

The Council will now provide free and discounted access to facilities at Jubilee2 for serving and retired officers, as well as reservists, as part of its commitment to upholding the key principles of the Armed Forces Covenant.

A leisure pass was one of the recommendations in a recent unanimously supported motion calling for the Council to reaffirm its commitment to the covenant.

8. **Experience Newcastle – Newcastle Town Centre Growth Plan**

Cabinet endorsed a new prospectus entitled Experience Newcastle; this outlined the projects and schemes underway or planned to improve Newcastle town centre:

- **Healthy High Street** – a suite of actions to support economic vibrancy and help to address adverse trading conditions.
- **Diversification** – bringing forward residential and non-retail employment uses into currently under-utilised or redundant premises and by doing so bringing more people into the town centre to live and work.
- **Revitalisation** - an action plan for improvements to the town's historic market, with actions put in place to improve its vitality and sustainability.
- **Improved CCTV** - with support from the town centre BID, upgrading the town centre CCTV.
- **Car Parking Strategy** – setting out how the town centre parking provision can be used to support the town centre economy over the next decade.

9. **Progress on Preventing Unauthorised Encampments**

The Cabinet received a report which detailed the programme of actions taken to deter illegal traveller incursions on borough-owned land.

Deterrent measures including wooden bollards, boulders and reinforced locks have been installed at 14 locations; these, together with the halving of eviction times, have led to a significant reduction in the number of incursions this year.

10. **Aspire Housing and Newcastle Borough Council – Prospectus for Joint Working**

The Cabinet has approved a closer working relationship with Aspire Housing that will focus on: development and regeneration, housing advice and allocations, locality working and training opportunities. This will benefit communities across the borough and will build on

the already long track record of joint working between the organisations dating back over 19 years.

A briefing will be arranged in due course for Members of the Council on the work of Aspire Housing and its associated companies, PM Training and Realise Foundation.

11. **Financial and Performance Review Report – Second Quarter (July–September) 2019-20**

Cabinet reviewed the performance data for Quarter Two and noted that 78% either met their target or were within acceptable levels.

Cabinet Members outlined measures that were in place where indicators were below target and actions taken to address those.

12. **Forward Plan**

The Forward Plan (01/09/19 to 31/12/2019) can be found at:

<https://moderngov.newcastle-staffs.gov.uk/mgListPlanItems.aspx?PlanId=97&RP=118>

Report to Full Council: Finance, Assets & Performance Scrutiny Committee.

The Scrutiny Committee met on 19th September and agreed its initial work programme for 2019/20.

During this meeting, the scrutiny committee looked at:

THE IMPACT OF UNIVERSAL CREDIT ROLLOUT IN NEWCASTLE UNDER LYME.

THE ICT STRATEGY AND DEVELOPMENT PROGRAMME

THE DIGITAL STRATEGY OUTLINE BUSINESS CASE

The impact of universal credit rollout in Newcastle-under-Lyme, on both the residents and the staff and staffing structure, was discussed. Representatives from the Citizens Advice Bureau and the Department for Work and Pensions) joined the meeting to help address the issues raised by members. The Benefits Manager provided information relating to the impact on both benefit claimants and Newcastle under Lyme Borough Council since the introduction of Universal Credit.

Impact on residents:

As of the 11 July 2019 the number of people nationally receiving Universal Credit was 2.3 million. This is a 5% increase from 13 June 2019. Currently the number of people receiving Universal credit in Newcastle was 2817 and for Kidsgrove 1275. The major issues identified since the roll out of the benefit included:

- Wrong advice about which benefit should be claimed
- 1 in 5 claimants do not receive their benefits on time (National Audit Office 2018)
- Failure to pay housing costs because tenancy agreements are lost
- Tenants without a standard tenancy agreement are being refused housing costs
- Housing costs incorrectly calculated
- Difficulties establishing and maintaining a claim due to no computer access or lack of digital skills
- Issues with the award of disability related elements of Universal Credit
- Communications with the DWP and processing of evidence
- Housing benefit paid to claimant and not being paid over to Landlords to pay rent
- Universal Credit assessment period not falling in line with four weekly paid salaries, meaning two salary payments could fall within one month's assessment period.
- Excessive deductions from Universal Credit for court orders etc., leaving a claimant with little money for that month These issues, together with the impact on residents, were being addressed by the DWP. The CAB received funding to support disability claimants.

Impact on NULBC:

Following the introduction of Universal Credit showed that the staff/work ratio had seen changes. The Housing Benefit caseload in April 2013 prior to the introduction of Universal Credit was 7945 claims. In December 2018 the start of full service, the case load had fallen to 6894. The caseload had further reduced to 6101 at 31 July 2019. This reduction had resulted in an impact on the resources needed within the benefit team. Staffing levels had reduced since 2013 by way of flexible

retirement. Since December 2018, following the substantial loss of new Housing Benefit claims, more resource had been put into the recovery of Housing Benefit overpayments. The administration of Pensioner claims and Council Tax Reduction was still a significant part of the workload. Staff had also been allocated additional work from within the Revenues and Benefit service. Future resourcing needs and service delivery model for the benefit service are currently being addressed within the restructure of the Resource and Support Services directorate to implement more flexible and integrated ways of working that offer improved efficiency and resilience as well as providing a better customer experience. The reduction in new claims had also had an impact on the number of claimants contacting the Customer Services Team. All benefit and customer services staff at NULBC are fully trained to provide the correct advice regarding claiming the correct benefit. In this respect a secondment arrangement had been in place since May 2019 for two members of the Revenues and Benefits Customer Service Team to support the CAB with the project 'Help to Claim'. Job Centre Plus, Aspire Housing and other agencies also provided support to UC claimants. Financial Implications Housing Benefit administration was mainly funded by the Department for Work and Pensions by way of an annual Administration Grant. NULCs grant for 2019/20 was £311,345 compared with £547,327 in 2013/14. As local authority caseloads reduce the admin grant will also reduce so that the grant will only support the administration of pensioner claims. Members raised issues concerning budgeting for claimants which had resulted in constituents having to access the foodbank. In response the DWP representative explained that payments were made in arrears which included a 5 week wait for benefits. Although an advance payment could be made this was recovered. Claimants experiencing hardship were signposted to projects such as Moneywise. Councillors were concerned that, with the reduction in staffing levels NULBC would be less able to support claimants and asked how long present staffing levels could be sustained without redundancies. It was confirmed that staffing would not be reduced beyond natural wastage and that teams would be further integrated. A consultation exercise had been completed with managers and it was agreed that this report would be considered by this Committee. Members raised the issue of claimants who could not complete application on-line and the representative from DWP confirmed that there was also a telephone service available. A member suggested that funding for a shared service in respect of digital exclusion should be explored.

The committee agreed that the report be noted and a further report concerning staffing proposals be submitted to Committee for consideration.

ICT STRATEGY AND DEVELOPMENT PROGRAMME:

The Head of Customer Services and Digital Services submitted a report which outlined the significant development programme within the Councils ICT Service. The report described the current priorities, the relationship with the Councils Digital Programme and how the future strategy would be developed. The ICT Team were responsible for the day to day operation and development of the Councils ICT services supporting approximately 400 active ICT users and working to ensure service delivery within: Desktop & Service Desk Applications Support Infrastructure Project Management A full copy of the development plan and ICT Strategy was included as an Appendix to the report.

Members discussed the alternatives to Microsoft together with the costs and benefits. Discussions also included the impact of the uncertainties surrounding Brexit and, in this respect, it was confirmed that apart from J2 all services were hosted in house and the hardware sourced from outside the UK.

The committee agreed that the report be noted.

DIGITAL STRATEGY OUTLINE BUSINESS CASE

The Head of Digital and Customer Services submitted a report which provided an overview of the rationale for change and potential costs and benefits of the proposed programme of work to deliver the digital strategy considered by 4 September Cabinet. The Strategic section of the Outline Business Case set out how the strategy would support delivery of the Councils key priorities. The Commercial Case outlined the financial rationale for change and described how the strategy would contribute to the long-term financial sustainability of the Council by enabling efficiency savings and income generation. The Economic Case set out the investment required to deliver the digital programme and its benefits. The Financial Case set out the broad categories of financial benefit that the programme would provide. It was anticipated that over the initial 3 years of the programme £919,800 was required to cover predominantly staff costs. Whilst most of these costs could be met from existing budgets a contribution of £100,000 per year was required in each of the next 3 years to meet the costs of a dedicated Digital Business Manager and Business Process Engineer. There would also be costs for technology, development and specialist external input. Members asked for reassurance that a HR Strategy was in place to support any member of staff at risk. In response it was confirmed that a revised redeployment process had been drawn up which was subject to consultation with staff and trade unions and most recently a Mutually Agreed Resignation Scheme had been introduced. A member was concerned that, as an organisation the Borough tended to hand over technology to an expert which was often difficult to interpret within a social context. In response the Officer stated that the Digital Delivery Strategy engaged at an early stage with excluded residents. In addition, a partnership arrangement with other agencies to ensure accessibility of services was sought.

The committee agreed that, subject to feedback to Cabinet on the issues raised by Members the report be noted.

DATE OF NEXT MEETING - 16 DECEMBER 2019

Cllr Helena Maxfield

Chair; Finance, Assets & Performance Scrutiny Committee.

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Health and Wellbeing and Partnerships Scrutiny Committee

14 October, 2019

Consideration of the call in.

Cllr Kearon stated that the Labour group were not opposed to CCTV and were in agreement that CCTV had a role in keeping residents safe. However, to ensure that the proposed course of action was value for money and that the Borough Council would be entering into a partnership with Stoke-on-Trent City Council and considered that the details of the scheme should be explored in more detail by the Health and Wellbeing Scrutiny Committee and the Finance, Assets and Performance Scrutiny Committee.

The Leader informed the committee that the Borough Council had undertaken a thorough review of existing CCTV provision with the assistance of key stakeholders, including the BID who had contributed £40k to the total cost of £80k .

In response to the points raised, it was explained that a legal framework agreement would include procurement , commissioning and performance management.

The Leader assured the committee that both FAP and HWP would be kept informed.

Councillor I Wilkes

Chair

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Audit and Standards Committee

The committee met on 23rd September 2019.

During the course of the meeting, the business dealt with was as follows:

Members were advised that the Local Ombudsman Annual Review letter had been received by the council and that whilst the number of decisions had increased slightly, no complaints against the council had been upheld.

The Corporate Risk Management Report for Q1 was reviewed and a number of new risks noted, which applied largely to building issues at Castle House. Members were assured that the issues were being dealt with and that it was hoped that solutions were imminent for some of the problems.

Members questioned the method of arriving at high risk values which appeared to remain at maximum level despite work to mitigate the risks. It was agreed that a worked example would be carried out at the next meeting to show how the values are calculated.

Jan Willis informed members that the Annual Accounts for the year ended 31st March 2019 had been signed by the Chair, under delegated authority and Grant Pattison of Grant Thornton took members through the Annual Audit Letter which detailed additional work undertaken during this year's Audit and the costs accruing as a result of this. It was resolved that the letter be received.

Members resolved that the Internal Audit Progress Report -Quarter one and the quarterly report relating to the Adoption of Internal Audit High Risk Recommendations and Summary of Assurance, be received.

Next Meeting 11th November 2019.

Paul Waring (Chair)

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