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**NEPO CONSTITUTION**

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**Responsible Cabinet Member – Councillor Chris McEwan  
Efficiency and Resources Portfolio**

**Responsible Director - Paul Wildsmith, Director of Corporate Services**

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**SUMMARY REPORT**

**Purpose of the Report**

1. The purpose of this report is to present a revised Constitution and revised ‘Shared Services’ Arrangement for the North Eastern Purchasing Organisation (NEPO) to Cabinet for approval.

**Summary**

2. The North Eastern Purchasing Organisation (NEPO) is responsible for organising collaborative contracts through which councils purchase goods and services. It comprises a small number of staff managed by the Head of Procurement of Gateshead Council, and is governed through a Joint Committee of 36 members drawn from the 12 councils in this region. Member councils pay an annual subscription to contribute to its costs, this figure is currently circa £30k.
3. NEPO has performed well over recent years and has developed a good reputation for delivering savings through contract rebates and lower prices, which are estimated to exceed £5m per annum. Nevertheless, it has been recognised for some time by the Joint Committee that only a relatively small proportion of local authority contracts are organised collaboratively, and that considerable scope exists to develop the role of NEPO further.
4. In October 2008 the Joint Committee agreed to commission with the North East Efficiency and Improvement Partnership ( NE-IEP) an assessment of its own capacity, capability and organisational arrangements to determine the scope for increasing the volume of collaborative procurement between councils. Initial options were considered by the Joint Committee in October 2009, following which it was agreed that a Business Plan should be commissioned to enable a decision on the future governance arrangements of NEPO to be reached by the summer of 2010.
5. In line with this decision, and following extensive consultation, a detailed Business Plan for the development of NEPO was finalised earlier this year. The Business Plan proposed a new organisation designed to expand the influence of NEPO in the region; to increase the level of financial savings substantially and to support the regional supply chain to benefit from better public sector contracting opportunities.

6. The Business Plan is attached at **Appendix A**, with the revised ‘Shared Services’ Arrangement, including the revised Constitution at Schedule 2, attached at **Appendix B**.

### **Recommendation**

7. It is recommended that Cabinet:-
- (a) Approves the revised Constitution for the Joint Committee for the North Eastern Purchasing Organisation, as set out in **Appendix B**, Schedule 2.
  - (b) Approves the revised ‘Shared Services’ Arrangement for the North Eastern Purchasing Organisation, as set out in **Appendix B**, and authorise the Borough Solicitor to enter into the Arrangement.
  - (c) It is recommended that the Executive Member with responsibility for Efficiencies and Resources and the Chair of Resources Scrutiny be appointed to serve on the Joint Committee.
  - (d) Recommends to Full Council that it makes any consequential changes to its Constitution to give effect to these revised arrangements

### **Reasons**

8. The recommendations are supported by the following reasons :-
- (a) The revised Constitution is required to reflect the more strategic role of the Joint Committee in the new North Eastern Purchasing Organisation.
  - (b) The revised ‘Shared Services’ Arrangement is required to reflect the changes that have been made to the arrangements for Collaborative Procurement within the North East

**Paul Wildsmith,  
Director of Corporate Services**

### **Background Papers**

Business Plan – Regional Governance Review of Collaborative Procurement – 8 June 2010

Susan White: Extension 2019

S17 Crime and Disorder	This decision will not have an impact on Crime and Disorder
Health and Well Being	This decision will not have an impact on Health and Well being
Sustainability	This decision will not have an impact on Sustainability
Diversity	This decision will not have an impact on Diversity
Wards Affected	No wards will be affected by this decision
Groups Affected	No wards will be affected by this decision
Budget and Policy Framework	This report does not recommend changes to the Budget and Policy Framework
Key Decision	Yes
Urgent Decision	No
One Darlington: Perfectly Placed	This decision will not have an impact on the objectives of the Sustainable Community Strategy
Efficiency	The use of collaborative contracts arranged through NEPO will deliver greater efficiencies for the authority.

## MAIN REPORT

### Information and Analysis

9. The North Eastern Purchasing Organisation (NEPO) is responsible for organising collaborative contracts through which councils purchase goods and services. It comprises a small number of staff managed by the Head of Procurement of Gateshead Council, and is governed through a Joint Committee of 36 members drawn from the 12 councils in this region. Member councils pay an annual subscription of circa £30K to contribute to its costs.
10. NEPO has performed well over recent years and has developed a good reputation for delivering savings through contract rebates and lower prices, which are estimated to exceed £5m per annum. Nevertheless it has been recognised for some time by the Joint Committee that only a relatively small proportion of local authority contracts are organised collaboratively, and that considerable scope exists to develop the role of NEPO further. It has been estimated by the North East Regional Improvement and Efficiency Partnership that potential savings in excess of £25m per annum could be generated by 2012/13 through collaborative procurement by NE Councils, and this is especially important in the light of public spending reductions that are likely to impact on local authorities over the next few years
11. In October 2008 the Joint Committee agreed to commission with the **East Efficiency and Improvement Partnership** (NE-IEP) an assessment of its own capacity, capability and organisational arrangements to determine the scope for increasing the volume of collaborative procurement between councils. Initial options were considered by the Joint Committee in October 2009, following which it was agreed that a Business Plan should be commissioned to enable a decision on the future governance arrangements of NEPO to be reached by the summer of 2010.
12. In line with this decision, and following extensive consultation, a detailed Business Plan for the development of NEPO was finalised earlier this year. The Business Plan proposed a new organisation designed to expand the influence of NEPO in the region; to increase the level of financial savings substantially and to support the regional supply chain to benefit from better public sector contracting opportunities. In summary the Business Plan proposes:
  - (a) A strengthened set of strategic objectives for NEPO, with additional emphasis on the role public expenditure can play in developing the regional economy.
  - (b) A refreshed Joint Committee, with two members drawn from each member council; one of whom it is recommended is the Portfolio Holder covering procurement and/or the Procurement Champion.
  - (c) A new Executive Sub-Committee to monitor performance and ensure robust delivery.
  - (d) New Scrutiny and Audit Sub-Committees.
  - (e) A revised operating model with an enhanced officer structure, led by a full time Director, based on adopting a regional strategic category management approach to procurement, with significantly greater supplier engagement and support.

- (f) A 'hub and spoke' arrangement, with member councils undertaking work of a regional nature on a cost reimbursement basis.
  - (g) A transitional period until 31 March 2012 during which the Joint Committee will:
    - (i) Maintain current annual subscriptions, which at the moment is circa £30K per member, with any additional running costs being met by the NE-IEP and an increased level of retained rebates from contracts
    - (ii) Review the funding/subscription model by 31 March 2011, so as to enable a new arrangement to be in place by 1 April 2012
    - (iii) Review the performance and viability of the new organisation through an Officer Advisory Group of Chief Executives or other Senior Directors responsible for procurement
    - (iv) Review the current Host Authority and accommodation responsibilities currently carried by Gateshead Council by March 2011, with any change taking effect from April 2012
    - (v) Consider the future branding of NEPO by 31 December 2010. The Business Plan is attached at **Appendix A**.
13. The Business Plan was considered at an ANEC Leaders and Elected Mayors Board Meeting held on 15 June 2010. Leaders and Elected Mayors expressed their support for the approach taken in the Business Plan and agreed:
- (a) The recommendations set out in the Business Plan.
  - (b) In relation to governance, ... a member body of 12 Executive Members, 6 Scrutiny Members and 6 Audit Members – *i.e. a Joint Committee of 24 Members with 2 from each Council*.
  - (c) The 12 local authorities in the region be asked to give approval, through their Executives, to the new organisational and governance arrangements by no later than 30 September 2010.
  - (d) The existing NEPO Joint Committee should continue to operate for an interim period, with an AGM for the new organisation being held in mid-October once approval from all 12 Authorities to the new constitution is in place.
  - (e) Subject to appropriate arrangements being made for member involvement in the process, authority be delegated to the Chief Executives of Newcastle, Durham and Gateshead and the Directors of the Regional Improvement and Efficiency Partnership (or their nominated representatives) to agree the process for recruitment of a Chief Officer, to interview candidates and to make the appointment. (**NOTE:** An appointment of Director of NEPO took place on 30 July 2010, and the successful candidate will take up the post on 4th October 2010).
14. The inaugural Annual General Meeting of the newly constituted Joint Committee is due to take place on 28 October 2010.
15. In view of the above, it is necessary to make significant amendments to the existing NEPO Constitution under which the Joint Committee currently operates, and to update the 'Shared

Service' Arrangement between member councils. These documents have been the subject of detailed consultation with legal officers from all member councils.

16. Each Council is also required to nominate two members to serve on the Joint Committee, one of whom is recommended to be an Executive Member with responsibility for procurement and/or the council's Procurement Champion.

### **Constitution**

17. The revised constitution brings into effect the recommended governance changes set out in the agreed business plan. The significant features are as follows:
  - (a) A Joint Committee of 24 Members, rather than 36 members, with a new set of functions to develop the long term strategy for regional strategic procurement, approve business plans and ensure organisational effectiveness through its sub-committees
  - (b) A new Executive Sub-Committee of 12 members, comprising Executive Members from each council with responsibility for procurement, to review performance and monitor the effectiveness of the organisation and to take on such strategic duties as are delegated by the Joint Committee.
  - (c) A new Scrutiny Sub-Committee of 6 members to develop and deliver an annual programme of scrutiny reviews of procurement activity within the organisation
  - (d) A new Audit Sub-Committee of 6 members to provide the Joint Committee with assurance of the efficient and safe operation of its affairs
  - (e) An extended tenure for Chairs and Vice Chairs from one year, up to two years to facilitate consistency and longer term planning
  - (f) An Officer Advisory Board of the Chief Executive or Senior Director with responsibility for Procurement from each Council, to ensure that the regional agenda is being pursued effectively and that the Joint Committee is meeting the objectives of each Council
  - (g) More extensive delegation to a full time Director to manage the new organisation, determine contracts and represent councils in national discussions concerning procurement activity, within the overall strategic framework set by members

### **'Shared Services Agreement'**

18. A revised 'Shared Services' Agreement establishes the formal relationship between member councils, as required by the agreed Business Plan. The significant features are as follows:
  - (a) Commencement of the 'Agreement' on 28 October 2010
  - (b) Agreement that Gateshead Council will act as Host Authority for NEPO until at least 31 March 2012, subject to a decision by the ANEC Leaders and Elected Mayors Board before 31 March 2011 on the arrangements thereafter

- (c) An obligation by member councils not to withdraw from regional contracts following a commitment to participate, without the prior agreement of the Joint Committee
- (d) An agreement to share relevant data, and to support regional working on a cost reimbursement basis
- (e) A freeze in the annual member subscription to NEPO until 31 March 2012, with any additional running costs being met from NE-IEP funds and rebate income
- (f) A review of the funding/subscription model by 31 March 2011, so as to enable a new arrangement to be in place by 1 April 2012
- (g) The admission of other local authorities or public sector organisations to become NEPO members, by unanimous agreement of the Joint Committee
- (h) A biannual report by the Joint Committee to the ANEC Leaders and Elected Mayors Board on outcomes
- (i) Shared liabilities, other than those arising from gross negligence, gross misconduct or persistent breach of law or duty
- (j) Notice to withdraw membership subject to notice, expiring on 31 March in any given year

### **Impact on Darlington**

19. The main changes from the existing governance arrangements to the new ones are highlighted below: -

- (a) There are currently three elected members on the Joint Committee, two from the ruling party and one from the opposition. This will change to two representatives from the same group.
- (b) NEPO is a Joint Committee carrying out Executive functions. Powers are delegated from Cabinet to the Joint Committee to make those decisions, the Committee or the Constitution can delegate those powers to officers within NEPO. Currently contract award decisions are delegated from Cabinet to the Joint Committee, under the new arrangements these decisions will be further delegated to the Director of NEPO.
- (c) The current number of full time equivalents working in NEPO is 14.5 for which all authorities pay an equal contribution of circa £30k. Each authority then receives rebates based on the volumes purchased from the NEPO contracts, each year we have a net income from our membership of circa £37k. The new organisation will have a dedicated director and a new structure, this will mean the gross cost of the organisation will increase however during the interim period the intention is to keep the LA contribution the same but to recoup the extra cost from rebates. This may mean that we receive less direct income than at present, however, the business case for the new organisation is based on achieving significant additional savings. Potential barriers and risks to the achievement of savings are identified in the business plan, which will need

to be managed. The organisation and funding structure is to be reviewed during the interim period

## **Conclusion**

20. The above changes to NEPO represent a real opportunity for the region to benefit substantially from additional and more strategically focused collaborative procurement, both in terms of financial savings for member councils, and to stimulate the regional economy. To bring the new organisation into being requires agreement by all Council Executives of a revised Constitution and 'Shared Services' Agreement. As required by the ANEC Leaders and Elected Mayors Board, this needs to be completed prior to the inaugural AGM of the Joint Committee to be held on 28 October 2010.

## **Outcome of Consultation**

21. Chief Executives, NEPO Elected Members and Heads of Procurement were consulted in preparation of the Business Case - Regional Governance Review of Collaborative Procurement