

**COUNCIL**  
21st March 2013

**PRESENT** – The Mayor; Councillors Carson, Copeland, Coultas, Crudass, Curry, Dixon, Donoghue, Francis, Grundy, Harker, Harman, Haszeldine, L. Haszeldine, C. L. B. Hughes, L. Hughes, Hutchinson, Johnson, Kelley, Knowles, Landers, Lawton, Lister, Long, D. A. Lyonette, Macnab, McEwan, Newall, Nutt, Regan, E. A. Richmond, S. Richmond, A. J. Scott, Mrs. H. Scott, Stenson, Swainston, C. Taylor, J. Taylor, Thistlethwaite, J. Vasey, L. Vasey, Wallis, Wright and York. (45)

**APOLOGIES** – Councillors Cartwright, Cossins, B. Jones, Mrs. D. Jones, Lee, Lewis, and J. M. Lyonette. (7)

**56. MINUTES** – Submitted – The Minutes (previously circulated) of the meetings of this Council held on 24th and 31st January and 28th February 2013.

**RESOLVED** – That the Minutes be approved as correct records.

**57. DECLARATIONS OF INTEREST** – There were no declarations of interest reported at the meeting.

**58. ORDER OF SEALING DOCUMENTS** – Presented – The Register showing the documents which had been sealed since the last meeting of Council.

**59. ANNOUNCEMENTS – (1) Death of former-Mayoress Laura Stenson** – The Mayor reported on the death of former-Mayoress Laura Stenson, who had sadly passed away on Monday, 4th March 2013. It was noted that Mrs. Stenson served as Mayoress alongside Councillor Bill Stenson during his Mayoral Year in 1981/1982.

As a mark of respect, Members held a short silence for former-Mayoress Laura Stenson.

**(2) Local Government Chronicle: Local Economic Partnership Award** – The Mayor advised Members that the Foundations for Jobs initiative, a partnership between the Council, the Darlington Partnership, The Northern Echo, and the former Bishop of Durham, the Right Reverend Justin Welby, had won the Local Government Chronicle: Local Economic Partnership Award.

**60. QUESTIONS – TO ANSWER QUESTIONS (WHERE NOTICE HAS BEEN GIVEN) FROM – (1) The Public** – There were no questions from members of the public.

**(2) Members to Cabinet/Chairs** – There were no questions from Members, where notice had been given, for the Mayor, Members of the Cabinet, or the Chairs of the Scrutiny Committees.

**(3) Police and Crime Commissioner for Durham and Darlington** – The Police and Crime Commissioner for Durham and Darlington addressed Members.

**61. COUNCIL REPORTS – (1) Constitutional Changes** - The Director of Resources submitted a report (previously circulated) requesting that consideration be given to changes to the Constitution due to changes in legislation. It was noted that the changes were required to allow for the transfer of public health functions to local authorities, the establishment of the new Health and Wellbeing Board as a Committee of the Council, the new responsibilities as a result of Welfare Reforms, and to make a number of further changes in relation to Executive Arrangements, Standards Committees and the Policy Framework.

The submitted report stated that the Constitution outlined the framework for the decision making of the Council, and, as new legislation had been brought into force and new functions had transferred to the Council, it was necessary to update the Constitution to record how decisions in relation to those functions would be taken, and identify any delegations of those functions to committees or officers.

**RESOLVED** – (a) That the Constitution is amended to reflect the changes to responsibilities agreed by Cabinet as follows:

- (i) That the powers in relation to Public Health are delegated to the Director of People acting through the Director of Public Health.
  - (ii) That the Director of Public Health is added to the scheme of delegation with the same powers and duties as Assistant Directors in relation to the areas within their responsibility.
  - (iii) That the Director of Public Health is recognised as a proper officer function (one with specific responsibilities identified in statute as exercisable by a particular officer) in the list of Proper Officer functions within the Constitution.
  - (iv) That the Cabinet Portfolio for Health and Partnerships is amended to show the additional public health responsibilities set out in the Act.
- (b) That the Scrutiny remit of the Health and Partnerships Scrutiny Committee is amended to show specific responsibility for scrutinising the executive in relation to the exercise of the new public health functions and the Constitution is amended to reflect that change.
- (c) That the Council establishes a new Committee called the Health and Wellbeing Board and that paragraph 29 of the Summary and Explanation section of the Constitution is amended, together with the Responsibility for Functions Section, to reflect the new Committee.
- (i) That the Membership of the Board is as set out in paragraph 27 of the submitted report. Voting rights for the Board will be for statutory members only, and the detail of voting rights will be decided by the Board through its Terms of Reference.

- (ii) That the Terms of Reference of the Board should be included in the Council's Constitution. In other respects the Board will conduct itself in accordance with the rules operating in relation to other Council Committees.
  - (iii) That the powers and functions of the new Board will be as detailed in the Terms of Reference.
  - (iv) That the quorum for the Board should be no less than one quarter of the membership and at least one member of each Darlington Borough Council and the Clinical Commissioning Group.
- (d) That the following plans and strategies be approved as the Council's Policy Framework, and that the current plans and strategies be approved (as set out in the Appendix A of the submitted report)
- (i) Sustainable Community Strategy \*1 (Mandatory)
  - (ii) Corporate Plan (Mandatory)
  - (iii) Economic Strategy
  - (iv) Medium Term Financial Plan (Mandatory)
  - (v) Health and Well Being Strategy
  - (vi) Child Poverty Strategy
  - (vii) Community Safety Plan (Mandatory)
  - (viii) Children and Young People's Plan (Mandatory if the LA decides to publish one)
  - (ix) Local Plan Core Strategy – plans and strategies that comprise the development Plan (Mandatory)
  - (x) Transport Strategy
  - (xi) Housing Strategy
  - (xii) Environment Strategy
  - (xiii) Leisure Strategy (Sport and Physical Recreation)
  - (xiv) Organisational Development Strategy
  - (xv) Treasury Management Strategy
  - (xvi) Library Plan (Mandatory)
  - (xvii) Licensing Authority Policy Statement (Mandatory)
  - (xviii) Local Transport Plan (Mandatory)
  - (xix) Youth Justice Plan (Mandatory)
- (e) That the following changes be made to the Access to Information Rules (Rules) within the Constitution to reflect the changes to legislation relating to Executive decisions:
- (i) That the Rules be amended to reflect the 28 day time period for the Forward Plan currently in the legislation
  - (ii) That the Rules be amended to reflect the changes to the urgency procedure required by the legislation.
  - (iii) That the Rules in relation to Executive Decisions be amended to say that wherever decisions are sufficiently important or sensitive that the public might expect those decisions to be taken by an elected member decision

making body, such as Cabinet, rather than by an officer using delegated powers, a decision record will be made using the prescribed form..

- (iv) That the Rules be amended to comply with the advance notice requirements for private session decisions.
- (f) That the following changes be made to the Constitution in relation to Standards
  - (i) That the Council Procedure Rules and Cabinet Procedure Rules be amended to take account of changes that have been occasioned by the revised Code of Conduct
  - (ii) That interests specified within the Code as not preventing participation be formally incorporated into the Council Procedure Rules and the Cabinet Procedure Rules
  - (iii) That the Rules be amended to include the requirement for Members to leave the meeting when a matter about which they have a pecuniary interest is about to be considered.
  - (iv) That the Rules and Scheme of Officer delegation be amended to provide that the power to grant dispensations to Members be exercisable by the Head of Paid Service and that the power is carried out on her behalf by the Monitoring Officer.
- (g) It is recommended that the Scheme of Officer delegation be amended to include the wording set out in paragraph 55 of the submitted report in relation to the Assistant Director Building Services and Housing.
- (h) That
  - (i) The Police and Crime Panel, its membership and function be included within the Council's Constitution.
  - (ii) The Audit Committee to the Police and Crime Panel be added to the Constitution.
  - (iii) Councillor Baldwin be appointed to sit on the Audit Committee of the Police and Crime Panel.

**REASONS** – (a) To give effect to legislative change.

(b) To absorb new responsibilities.

(c) To ensure that the Council's Policy Framework remains up to date.

(d) To ensure that the Constitution is accurate and up to date.

**(2) Pay Policy** – The Director of Resources submitted a report (previously circulated) requesting that Members receive and approve the Pay Policy Statement for the financial year 2013/14, in line with the requirements of the Localism Act 2011.

The submitted report highlighted that the Localism Act 2011 required the Council to agree a written Pay Policy on an annual basis, and stated that the Council must publish specific information relating to the Council's highest and lowest paid employees. A proposed Pay Policy Statement was appended to the submitted report, and included details in relation to the pending transfer of Public Health employees from the 1st April 2013, the definition of pay in line with the Localism Act, and referenced the introduction of the Equality Act 2010 and the link with the Council's Pay Policy.

**RESOLVED** – That the proposed Pay Policy 2013/14, as appended to the submitted report, be approved, and published accordingly.

**REASON** – To enable the Council to comply with the requirements of the Localism Act 2011.

**(3) Provision of Civil Contingencies Services** - The Director of Place submitted a report (previously circulated) requesting that Contract Procedure Rules be waived, and that the Council enter into a service contract with Durham County Council for the provision of civil contingencies services.

The submitted report stated that the Council had a statutory obligation under the Civil Contingencies Act 2004 and associated legislation, to prepare and plan for, and respond to, emergencies. It was noted that the Council had previously contracted Durham County Council to provide specialist support to the Council to deliver this duty since the new County Council was formed from the previous two-tier County and District Councils, however explained that the agreement was due to expire in March 2013.

The submitted report outlined that discussions had taken place with Durham County Council to determine a new agreement to share resources to continue to reduce the burden on individual authorities, and maintain capacity and resilience. The benefits of the proposed agreement were subsequently outlined within the report.

**RESOLVED** – (a) That Contract Procedure Rules be waived and the development of a service contract arrangement with Durham County Council for the delivery of civil contingencies services be approved.

(b) That the Director of Place be authorised to negotiate, and enter into a service contract, with Durham County Council to deliver civil contingencies services on behalf of Darlington Borough Council.

**REASON** – To ensure the efficient and effective delivery of statutory duties relating to civil contingencies.

**(4) Hackney Carriages and Private Hire Vehicles Proposed Change to Vehicle Testing Arrangements** - The Director of Place submitted a report (previously circulated) requesting that consideration be given to an amendment to the Council's current Private Hire and Hackney Carriage Licensing Policy to provide an interim arrangement for the testing of hackney carriages and private hire vehicles in the light of the testing arrangements with Vehicle and Operator Services Agency (VOSA) being terminated.

The submitted report stated that the Council's Private Hire and Hackney Carriage Licensing Policy required vehicles to be tested by VOSA, however VOSA had advised the Council that this service would cease from Sunday, 31st March 2013. The submitted report stated that it had been hoped that the Council would take on the testing function, however this was not possible due to the pending relocation of the Council's depot, and therefore the submitted report outlined proposed interim arrangements for approval.

**RESOLVED** – (a) That the proposed interim testing regime, as detailed in paragraph 17 of the submitted report, to ensure continuity of testing and public safety pending the transfer of testing from VOSA to in-house testing, be approved.

(b) That the Council's Private Hire and Hackney Carriage Licensing Policy be amended accordingly.

**REASON** – To ensure the continuity of testing of private hire and hackney carriage vehicles.

**62. CABINET REPORTS – (1) Overview Reports of Cabinet Members** – The Leader and Cabinet Members each gave a report (previously circulated) on the main areas of work undertaken under their relevant portfolio during the previous cycle of meetings. Cabinet Members answered questions on their portfolios.

**(2) Hundens Depot Relocation** - The Director of Resources and the Director of Place submitted a report (previously circulated) requesting that Members agree capital funding of £4.6M for the relocation of the Council Depot, to be initially funded by prudential borrowing and Growing Places Funding, and to seek approval for the estimated revenue financial consequences of the scheme, noting that the range of costs would be dependent on varying factors in the future.

The submitted report stated that, since May 2012, all parties to the masterplan for the Central Park development had been working in line with the principles set out in the Heads of Terms to complete the Deed of Variation to enable the development to start in early 2013, however it was reported that in September 2012, the developer consortium indicated that they were no longer able to agree to key principles agreed in the Head of Terms, and in November 2012 one of the residential developers confirmed that they would be unable to meet their obligations and enter into the Deed of Variation.

The submitted report detailed the recommendations made by Cabinet at its meeting on 5th March 2013, to secure the best outcome for the Council and advance the delivery of Central Park. The submitted report outlined the legal and financial risks associated with the options available, and balanced these against the benefits of enabling a start to the Central Park development in the short term, and highlighted that the relocation of Hundens Depot was essential to enable a start to the development so that the identified benefits could be realised.

**RESOLVED** – (a) That capital funding of £4.6M for the relocation of the Council Depot, to be funded initially by prudential borrowing and Growing Places Funding, as outlined in paragraph 18 of the submitted report, be approved.

(b) That the estimated revenue financial consequences of the scheme, as set out in paragraph 18 of the submitted report, acknowledging that the range of costs is dependent on varying factors in the future, be noted.

**REASON** – To allow Members to make a decision in light of the increased financial implications to the Council, due to the revised delivery mechanism which provides less certainty in respect of the delivery of Central Park South than the previous arrangement.

**(3) Cabinet Urgent Decisions** – The Chief Officer Executive submitted a report (previously circulated) detailing a decision taken by Cabinet as a matter of urgency and to which the procedure for call-in could not be applied.

The submitted report outlined the procedures to be followed if a decision was taken under the Urgency Rule and the Special Urgency Rule.

**RESOLVED** – That the urgent decision taken by Cabinet be noted.

**REASON** – To comply with the Council's Constitution.

**63. SCRUTINY REPORTS – OVERVIEW REPORTS** – The five Scrutiny Committee Chairs each submitted a report (previously circulated) on the main areas of work undertaken by their relevant Scrutiny Committee during the last cycle of Committee meetings.

**64. MEMBERSHIP CHANGES** – There were no membership changes reported at the meeting.