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**CONSTITUTIONAL CHANGES**

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**Responsible Cabinet Member - Councillor Bill Dixon, Leader**

**Responsible Director - Paul Wildsmith, Director of Resources**

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**SUMMARY REPORT**

**Purpose of the Report**

1. This report sets out changes to the Constitution which is necessary to give effect to legislation. In particular it makes changes to the Constitution 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, new responsibilities as a result of Welfare Reforms and to make a number of other changes in relation to Executive Arrangements, Standards Committees and the Policy Framework.

**Summary**

2. The Council's Constitution sets out the framework for the decision making of the Council. As new legislation is brought into force and new functions are transferred to the local authority the Constitution needs to record how decisions in relation to those functions can be taken and any delegations of those functions to committees or officers.
3. With effect from 1 April 2013 the Council has acquired public health functions and a report to Cabinet on 5 March 2013 has set out how those functions will be carried out. This report makes changes to the Constitution and allocates the responsibilities to the appropriate Scrutiny Committee.
4. The Council is required by 1 April 2013 to establish a Council Committee called the Health and Wellbeing Board and to make appointments to that committee and record its duties and responsibilities within the Constitution.
5. The Council has required new responsibilities in relation to the Social Fund.
6. The Council is required to amend its Executive Arrangements in relation to Access to Information and recording of decisions in accordance with legislative change. These need to be recorded within the Constitution.
7. The Council has established a Standards Committee, repeal of legislation relating to Standards Committees requires the Council to include changes to the

Constitution to deal with the change to legislation and allow for the operation of this committee.

8. The Council is required to have a Policy Framework with a number of mandatory plans and strategies. The Council is required to review the Policy Framework periodically to ensure that it remains up to date. The inclusion of new strategies in the Policy Framework, such as the Health and Wellbeing Strategy, requires approval by Council.

### **Recommendation**

9. It is recommended that:-

- (a) 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) 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) The Council establishes a new Committee called the Health and Wellbeing Board and paragraph 29 of the Summary and Explanation section of the Constitution is amended together with the Responsibility for Functions Section is amended to reflect the new Committee.
  - (i) The Membership of the Board is as set out in paragraph 28. 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) 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) The powers and functions of the new Board will be as detailed in the Terms of Reference.
- (iv) 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.

The following plans and strategies are approved as the Council's Policy Framework and the current plans and strategies are approved by Council (as set out in the **Appendix A**)

<http://www.darlington.gov.uk/Generic/councilinfo/policyframework.htm>

- (v) Sustainable Community Strategy \*1 (Mandatory)
- (vi) Corporate Plan (Mandatory)
- (vii) Economic Strategy
- (viii) Medium Term Financial Plan (Mandatory)
- (ix) Health and Well Being Strategy
- (x) Child Poverty Strategy
- (xi) Community Safety Plan (Mandatory)
- (xii) Children and Young People's Plan (Mandatory if the LA decides to publish one)
- (xiii) Local Plan Core Strategy – plans and strategies that comprise the development Plan (Mandatory)
- (xiv) Transport Strategy
- (xv) Housing Strategy
- (xvi) Environment Strategy
- (xvii) Leisure Strategy (Sport and Physical Recreation)
- (xviii) Organisational Development Strategy
- (xix) Treasury Management Strategy
- (xx) Library Plan (Mandatory)
- (xxi) Licensing Authority Policy Statement (Mandatory)
- (xxii) Local Transport Plan (Mandatory)
- (xxiii) Youth Justice Plan (Mandatory)

(d) 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) The Rules be amended to reflect the 28 day time period for the Forward Plan currently in the legislation
- (ii) The Rules be amended to reflect the changes to the urgency procedure required by the legislation.
- (iii) 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) The Rules be amended to comply with the advance notice requirements for private session decisions.
- (e) 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.
- (f) It is recommended that the Scheme of Officer delegation be amended to include the wording set out in paragraph 55 in relation to the Assistant Director Building Services and Housing.
- (g) It is recommended 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) Council appoint a Member to sit on the Audit Committee of the Police and Crime Panel.

## **Reasons**

10. The recommendations are supported to give effect to legislative change, to absorb new responsibilities, to ensure that the Council's Policy Framework remains up to date and to ensure that the Constitution is accurate and up to date.

**Paul Wildsmith**  
**Director of Resources**

## **Background Papers**

No Background papers were used in the preparation of this report

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S17 Crime and Disorder	There are no specific crime and disorder implications.
Health and Well Being	The report implements necessary changes to constitutional arrangements to implement legislative changes affecting public health services and the establishment of a Health and Wellbeing Board but has no direct impact any individual's health.
Carbon Impact	There are no carbon impact implications in this report
Diversity	This report implements legislation and has no direct impact on individuals. There are therefore no specific diversity issues.
Wards Affected	All wards are affected equally.
Groups Affected	All groups are affected equally.
Budget and Policy Framework	This decision does not represent a change to the budget and policy framework.
Key Decision	This is not an Executive decision.
Urgent Decision	This is not an Executive decision
One Darlington: Perfectly Placed	This report implements legislative change.
Efficiency	This report implements legislative change and has no implications for efficiency.

## MAIN REPORT

### Information and Analysis

#### Public Health Functions

11. The Health and Social Care Act 2012 will transfer certain Public Health functions to the Council with effect from 1 April 2013.
12. The act creates a duty on local authorities to take such steps as considered appropriate for improving the health of the people in its area.
13. The steps that a local authority can take under the Act include:
  - (a) providing information and advice;
  - (b) providing services or facilities designed to promote healthy living (whether by helping individuals to address behaviour that is detrimental to health or in any other way);
  - (c) providing services or facilities for the prevention, diagnosis or treatment of illness;
  - (d) providing financial incentives to encourage individuals to adopt healthier lifestyles;
  - (e) providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment;
  - (f) providing or participating in the provision of training for persons working or seeking to work in the field of health improvement;
  - (g) making available the services of any person or any facilities.
14. These responsibilities transfer to the local authority with effect from 1 April 2013 and a budget has been allocated of £6,989,000 for 2013/14 and £7,184,000 for 2014/15 to support the carrying out of these new functions.
15. The functions will be Executive functions which mean that they rest with the Leader and Cabinet. As with other Cabinet functions these should be allocated to the portfolio of one of the members of Cabinet and given the existing responsibilities of Councillor Andy Scott in relation to health the natural place would be within his portfolio. In addition there need to be arrangements for the Scrutiny of the functions by one of the Council's Scrutiny Committees.
16. Given the current responsibilities of the Health and Wellbeing Scrutiny Committee that Committee's remit could be extended to include Public Health. Functions which are to be carried out by Officers will need to be delegated by Cabinet and the Scheme of Officer delegation needs to be amended to include the delegation of responsibilities to the Director of People and the Director of Public Health. The

Director of Public Health is a role set out in statute and is therefore a proper officer and will need to be added to the list of proper officers within the Constitution. These changes are all consequential changes to the Constitution arising from the report presented to Cabinet with the exception of the extension of the remit of the Health and Wellbeing Scrutiny Committee for which approval is sought within this report.

## **Recommendation**

17. It is recommended that :-

- (a) 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) 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.

## **Health and Well Being Board**

18. The Health and Social Care Act 2012 also requires that each local authority establishes a Health and Wellbeing Board. The statutory functions of Health and Well Being Boards are to ensure that each area:-

- (a) Encourages providers of Health & Social Care services to work in an integrated manner for the purpose of advancing the health and well-being of the population.
- (b) Undertakes the Public Involvement functions that were previously outlined in the 2007 Health Act.

19. In addition to the above the local authority and Clinical Commissioning group are required to:

- (a) Develop a comprehensive Joint Strategic Needs Assessments (JSNA).
  - (b) Develop robust Joint Health and Well Being Strategy.
  - (c) In preparing the Joint Health and Well Being Strategy, the responsible authority and each of its partner Clinical Commissioning Groups (CCGs) must consider the extent to which needs could be met more effectively by undertaking Section 75 of the NHS Act arrangements (joint commissioning).
20. There are also provisions in the Act for a local authority to delegate any local authority functions that 'are exercisable by the authority.' Darlington is not proposing to delegate any further functions than those outlined in statute. The focus of Board activity will be the delivery of those responsibilities outlined above.
21. The Health & Social Care Act 2012 outlines the following statutory membership for Health & Well Being Boards:
- (a) At least one councillor of the local authority (all councillors who are members will have voting rights).
  - (b) Director of Public Health for the local authority
  - (c) Director of Adult Social Services for the local authority
  - (d) Director of Children's Services for the local authority (the Director of People will have one vote).
  - (e) Representative of Clinical Commissioning Groups (CCG)
  - (f) Representative of the Local HealthWatch organisation.
22. In addition to this statutory membership, the Board can appoint additional members to the Health and Well Being Boards. Each board can consider its membership based on local needs and priorities. Subject to the minimum mandatory members, the final membership is up to each local board.
23. The NHS Commissioning Board must also appoint a representative to join the board and this representative is required to attend for 'the purpose of participating in the preparation of the Joint SNA or the strategy'.
24. Health and Well Being Boards are outlined in the Act as a committee of Council. However some flexibilities are available within the Act that apply to the Board for this committee. Health and Well Being Boards can choose not to apply section 102 of the 1972 Local Government Act.
25. It is proposed to establish Darlington's Health and Wellbeing Board as a Council committee this means that the Committee is established by full Council as oppose to the Executive and carries out powers as non-executive functions. The Health and Well Being Board will not carry out any executive (Cabinet) functions of the local authority. However, the Board can continue to call for, and receive, reports on the wider determinants of health.



26. As a Council Committee the Board will be required to follow all the usual Access to Information requirements of a Committee and adhere in its procedures to the Council's Procedure Rules, save where its own Terms of Reference take precedence.

27. It is proposed to invite the following Board membership from April 2013:

- (a) Leader of the Council
- (b) Chair of Darlington CCG
- (c) Chief Executive, DBC
- (d) Chief Officer, CCG
- (e) Director of Services for People, DBC
- (f) Director of Public Health
- (g) Deputy Lead Clinician, CCG
- (h) Assistant Chief Officer, CCG
- (i) Chair, Darlington Healthwatch
- (j) NHS National Commissioning Board Local Area Team
- (k) Cabinet Member Health & Partnerships
- (l) Cabinet Member Children and Young People
- (m) Cabinet Member Adults and Housing
- (n) Police and Crime Commissioner
- (o) Chief Executive, County Durham and Darlington Foundation Trust
- (p) Chief Executive, Tees, Esk and Wear Valleys NHS Foundation Trust
- (q) Chief Executive, Probation Service
- (r) Leader of the Opposition Groups on Darlington Borough Council.
- (s) Faculty Lead for Health and Social Care, Teesside University
- (t) Representative of the CCG Community Council
- (u) Representative from the voluntary sector

28. While it is not anticipated that the need for a vote should arise, and the goal will be consensus, it is important to point out that should a vote be taken at any meeting of the Health and Well Being Board, voting will be restricted to those categories of members who have a statutory place on the Board as defined and changed from time to time by the legislation. The detail of how voting will be carried out and which of the statutory members will have a vote will be detailed in the Terms of Reference to be considered and approved by the Board itself.

29. Darlington's proposed Health and Well Being Board membership is broader than the statutory membership outlined within the Health and Social Care Act 2012. It is proposed to invite additional Board members such as Police and Crime Commissioner and the Probation Service. Both of these areas have the ability to contribute significant resources to this agenda in Darlington. In improving Health and Social Care outcomes for Darlington it will be important to look at innovative approaches. In a recently developed Department of Health good practise guidance document for Health and Well Being Boards, Darlington has been highlighted as a good example for extended membership and specifically for including the Police and Crime Commissioner on the Shadow Board.

30. It is proposed that the Chair of the Health and Well Being Board is the Leader of the Council and the Vice Chair is the Chair of Darlington Clinical Commissioning Group.
31. It is proposed to hold Board meetings quarterly and increase the time for these meetings from one hour to two hour meetings. These meetings will be held in public and the papers for the Board will be available to the public prior to Board meetings.
32. It is recommended that:-
  - (a) The Council establishes a new Committee called the Health and Wellbeing Board.
  - (b) The Membership of the Board is as set out in paragraph 27. Voting rights for the Board will be for statutory members and in accordance with the Terms of Reference. Statutory members are set out in paragraph 21.
  - (c) The Terms of Reference of the Board should be included in the Council's Constitution as the terms of reference for the new Board. In other respects the Board will conduct itself in accordance with the rules operating in relation to other Council Committees.
  - (d) The powers and functions of the new Board will be as detailed in the Terms of Reference.
  - (e) 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.

### **The Policy Framework**

33. The Policy Framework is set out in the Constitution in accordance with the requirements of the Functions and Responsibilities regulations. The Policy Framework sets out the broad policy direction of the Council which is recommended by Cabinet to Council. There are a number of plans and strategies which are required by law to be included in the Policy Framework the Council also has the discretion to add plans and strategies.
34. The current Policy Framework consists of the most important planning documents of the Council i.e. those that assist with giving overall direction to the organisation. It also includes statutory plans, as defined by statutory instrument, as well as other strategies/plans that the council has chosen to include as they form an integral part of its decision making process and allow for the better alignment of policy with strategy.
35. A review of this framework has been undertaken by mapping out the strategies, plans, policies and procedures for each Service Group having regard to the planning hierarchy. The documents that have been identified as 'overarching' will be referred to as Level 1 documents and will be included in the Council's Policy Framework.

36. Level One documents included in the Council's Policy Framework are as follows:-

- Sustainable Community Strategy \*1 (Mandatory)
- Corporate Plan (Mandatory)
- Economic Strategy
- Medium Term Financial Plan (Mandatory)
- Health and Well Being Strategy
- Child Poverty Strategy
- Community Safety Plan (Mandatory)
- Children and Young People's Plan (Mandatory if the LA decides to publish one)
- Local Plan Core Strategy – plans and strategies that comprise the development Plan (Mandatory) Transport Strategy
- Housing Strategy
- Environment Strategy
- Leisure Strategy (Sport and Physical Recreation)
- Organisational Development Strategy
- Treasury Management Strategy

37. In addition to those strategies and plans identified above the Council is required to include the following as mandatory within the Policy Framework:

- Library Plan
- Licensing Authority Policy Statement
- Local Transport Plan
- Youth Justice Plan

38. The list adds a number of plans which have previously been agreed into the policy framework. This requires an amendment to the Constitution. It is recommended that the list set out above replace the list currently set out in the Constitution. The addition of these plans will mean that in future these documents will be approved in accordance with the Budget and Policy Framework Procedure rules in the Constitution and approval will be by Council. All the current Plans and Strategies are attached at **Appendix A** (available electronically). Not all the Plans and Strategies currently exist where they are not in place they will be developed in accordance with the Budget and Policy Framework Procedure Rules set out in the Constitution and will be recommended by Cabinet to Council.

### **Consequential amendments**

39. A number of consequential amendments have also been made to the constitution. These revisions mostly reflect changes that have emanated from the Department of Communities and Local Government resulting in amendments to the relevant legislation. The main changes are as follows:

### **Key Decisions**

40. Changes have been made about the advance publicity required before key decisions can be made. Details about forthcoming key decisions that are to be considered by Cabinet are published on the forward plan. A key decision is one that is likely to result in significant budgetary expenditure or savings or likely to have a

significant effect on communities living or working in two or more Council wards). Prior to recent legislation the forward plan had to contain information about key decisions which were likely to be made by Cabinet in a four month period. This requirement has been relaxed and instead of a four month period the Council is required to publish information about forthcoming key decisions 28 days before the decision is to be taken. Information is to be made available at the Town Hall and also on the website. The Council has continued with the four month advance publicity period but it is proposed that the constitution be amended to reflect the 28 day time period currently in the legislation.

41. Where advance publicity of a key decision is impracticable and the requirements cannot be complied with the Chair of the relevant Scrutiny Committee must be advised and a notice published 5 days before the decision is to be made. As soon as possible thereafter a notice setting out the reasons why it was impracticable to comply with the advance publicity requirement for key decisions must also be published. In urgent cases, no notice needs to be given but the Chair of the relevant Scrutiny Committee must be advised and details of the reasons for it being considered urgent must be subsequently published. The Constitution will need to be amended to reflect the changes to the urgency procedure.
42. It is recommended that the Cabinet Procedure Rules be amended to reflect the legislative change.

#### **Decisions made under delegation**

43. Decisions which are Cabinet functions can be made by Cabinet or they can be delegated to individual Cabinet Members or Officers. New provisions require that when an executive (Cabinet) decision is made by an individual member or officer, that as soon as is reasonably practicable a written statement of the decision must be made. The written statement and any report written in connection with the decision made must be made available for inspection and published on the website. The statement must contain a number of details including, the date of the decision, the reasons, details of any alternative options considered and rejected and details of any conflict of interest declared by the Cabinet member consulted (and any dispensation granted).
44. The numbers of decisions that could come within the ambit of this provision are potentially very extensive. If every decision taken by officers under delegation had to have a written statement to accompany it and was published on the website this would quickly become unsustainably bureaucratic given the volume of decisions taken by officers. The view taken by the Monitoring Officer (which accords with the view of the Association of Council Secretaries and Solicitors) is that the requirement is to be construed as giving public access to decisions that the public would reasonably expect to be publically available in this way. This will apply to decisions that 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. This would mean that any decision of that type which is in fact taken by an officer under delegation will need to comply with the requirement for the publication of a written statement. It will however exclude a large number of routine and administrative decisions from the

requirement to have a written statement published. The public will of course still have the right to request information about these less significant decisions using the Freedom of Information Act.

45. It is recommended that the Cabinet Procedure Rules and the scheme of delegation be amended to reflect this new requirement with appropriate guidance for officers as to the requirement to produce a written statement.

### **Meetings held in private session**

46. The majority of Cabinet business is conducted in public, but there are long established exceptions when the press and public can be excluded. These are if confidential information or certain categories information which are exempt under local government legislation forms part of the business to be discussed. There is now a requirement that when Cabinet proposes to hold a meeting or a particular agenda item in private session that notice of this intention and the reasons should be published 28 days in advance. Members of the public can make representations about the proposal to hold a particular session in private and those representations together with the response from the Council will be published on the website. This enables the public to have greater awareness of meetings which are proposed to be held in private session and the reasons for this decision. In cases of urgency and it is not possible to give advance notice agreement must be obtained from the Chair of the relevant Scrutiny Committee and details must be subsequently published, giving the reasons for the urgency and why the decision could not reasonably be deferred. It is recommended that the Constitution be amended through the Access to Information Rules to reflect the advance notice requirements for private session decisions.

### **Localism Act 2011 Changes**

#### **Standards and Code of Conduct**

47. Members will recall that last year the Council adopted a new Code of Conduct for Members as a result of changes that were brought in by the Localism Act 2011. The Constitution and in particular the Council Procedure Rules and the Cabinet Procedure Rules will need to be amended to take account of changes that have been occasioned by the revised Code of Conduct.
48. The replacement Code of Conduct replicated the former Codes provisions which listed certain interests which would otherwise be caught by the Code of Conduct as ones that do not prevent participation (e.g. setting Council rents where a member is a Council tenant). It is proposed that these provisions be formally incorporated into the Council Procedure Rules and the Cabinet Procedure Rules as 'interests that do not prevent participation'.
49. The replacement Code of Conduct followed the concept of the previous code of conduct which required Members with a particular type of interest (personal and prejudicial in respect of the previous Code, pecuniary interests in respect of the current code) to leave a meeting when the agenda item about which they had an interest came up for consideration. The Council Procedure Rules and the Cabinet Procedure Rules will need to 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

## **Dispensations**

50. Prior to the Localism Act 2011 every principal authority was required to have a Standards Committee and dispensations from the Code of Conduct had to be sought from the Standards Committee. Dispensations allow the Committee to consider if more than 50% of Members were unable to take part due to having an interest or it was not possible to comply with certain requirements, then the Committee could consider whether to allow Members to take part even if they had an interest. The Localism Act abolished the requirement to have a Standards Committee. In Darlington we sought to retain the Standards Committee and the Code of Conduct that was adopted by this Council in May 2012 retained the provision for members seeking a dispensation to apply to the Standards Committee.
51. More recently legislation has been passed by Government that requires Cabinet Members seeking a dispensation for an executive (Cabinet) decision to obtain this from the Head of Paid Service. This effectively creates a two track system with decisions about executive business being obtained from the Head of Paid Service and non-executive dispensations being obtained from the Standards Committee. It is proposed to remove this duality by giving the power to grant dispensations for all business (non-executive as well as executive) to the Head of Paid Service. In Darlington the Head of Paid Service is the Chief Executive. It is further proposed that the Head of Paid Service delegates the power to grant both executive and non-executive dispensations to the Monitoring Officer. This would reflect the roles and responsibilities of the Monitoring Officer with regard to the constitution, member standards and the Standards Committee. To date in the twelve years since the 2000 Act came into force the Standards Committee has not been required to grant a dispensation to Council Members in relation to their interests.
52. It is recommended that the Council Procedure Rules, Cabinet Procedure Rules and Scheme of Delegation be amended to take account of these changes.

## **Assets of Community Value**

53. Cabinet approved a report on 5 March setting out arrangements for dealing with Assets of Community Value. The proposals require a change to the scheme of delegation for officers as follows:
  - (a) the Council's Scheme of Delegation to officers be amended, to include a new legal exception as follows:
    - (i) To carry out powers in relation to Assets of Community Value under part 5 Chapter 3 Localism Act 2011.
    - (ii) Under the heading Officer.

Powers to determine whether an asset should be placed on the list - Head of Service. Powers to determine reviews - Assistant Director

## Policy and Regeneration.

### Neighbourhood Planning

54. Cabinet approved a report on 5 March in relation to Neighbourhood Planning which delegated a number of new responsibilities to the Assistant Director for Policy and Regeneration in relation to Neighbourhood Planning these decisions require a number of changes to the Constitution. The decisions taken were as follows:

- (a) The following decisions in the Neighbourhood Planning process, as defined in the Neighbourhood Planning (General) Regulations 2012, be delegated to the Assistant Director for Policy and Regeneration:
  - (i) whether a body is a designated neighbourhood forum;
  - (ii) whether to accept and designate a Neighbourhood Area;
  - (iii) whether an application for a neighbourhood development plan or order is valid and should be accepted;
  - (iv) whether to decline or accept a repeat proposal for a neighbourhood development plan or order;
  - (v) the appointment of an examiner for a Neighbourhood Development Plan or Order;
  - (vi) whether to make a neighbourhood development plan or order following a referendum, and

The following decisions be made by Cabinet:

- (vii) decisions as to what actions to take in response to an examiner's report;
  - (viii) whether to modify neighbourhood development plans or orders;
  - (ix) adoption of the Neighbourhood Plan.
- (b) It is recommended that the Council's Constitution be amended as follows
- (i) The permissions be amended to include at 10(c) a new sentence, 'Power to process and determine all decisions relating to neighbourhood planning under the Localism Act 2011.'
  - (ii) The Scheme of Delegation to include a new delegation under the Corporate Director – Place to the Assistant Director – Policy & Regeneration with the responsibility for 'all aspects of the statutory function relating to Neighbourhood Planning'.

## **Welfare Reform Act 2012 Changes**

55. There are new powers as a result of the introduction of the Welfare Reform Act 2012 with effect from 1 April 2013. These will require changes to the current scheme of delegation to the Director of Resources and the Assistant Director for Housing and Building Services.
56. It is recommended that the current text be amended to the following:

The Administration of Housing Benefit, Discretionary Housing Payments, Council Tax Reduction Schemes, Council Tax Collection, Business Rates and the Social Fund (through the Corporate Director of Resources).

## **Police and Crime Panel**

57. The Police Act placed an obligation on the Council alongside Durham County Council to create a Police and Crime Panel for the Police area. This was done and has been operating now since October?. The Constitution will be updated to record the new Committee and its functions. More recently the Police and Crime Panel have created an Audit Committee. Membership of this panel will be partly independent and in part include members from each authority who are not members of the Police and Crime Panel. The Council will need to nominate a single member to sit on the Audit Committee. The Constitution will need to be amended to record the membership of the Police and Crime Panel Audit Committee.

## **Summary**

58. This report sets out a number of changes to the Constitution which reflect changes to legislation and in particular new responsibilities for the Council. This report represents a regular report to Council to keep the Constitution up to date.