

**COUNCIL**  
17th July 2014

**PRESENT** – The Mayor; Councillors Carson, Copeland, Cossins, Coultas, Crichlow, Crudass, Crumbie, Mrs. Culley, Curry, Dixon, Galletley, Grundy, Harker, Harman, C. L. B. Hughes, L. Hughes, Johnson, Kelley, Knowles, Lawton, Lister, Long, D. A. Lyonette, J. M. Lyonette, Macnab, McEwan, Newall, Nutt, Regan, A. J. Scott, Mrs. H. Scott, Stenson, Swainston, C. Taylor, J. Taylor, Thistlethwaite, L. Vasey, Wallis, Wright and York. (41)

**APOLOGIES** – Councillors Baldwin, Cartwright, Donoghue, I. Haszeldine, L. Haszeldine, Hutchinson, B. Jones, Mrs. D. Jones, E. A. Richmond, S. Richmond and J. Vasey. (11)

**ABSENT** – Councillor Landers. (1)

**OTHER APOLOGIES RECEIVED** – Mr. Ron Hogg, Police and Crime Commissioner for Durham and Darlington.

**9. MINUTES** – Submitted – The Minutes (previously circulated) of the meeting of this Council held on 8<sup>th</sup> May 2014.

**RESOLVED** – That the Minutes be approved as a correct record.

**10. DECLARATIONS OF INTEREST** – Councillors Carson and L. Hughes each declared a non-pecuniary interest in Minute 14(3), as Board Members of the Darlington Credit Union. Councillor Knowles declared a non-pecuniary interest in Minute 14(3) as Chair of The Loan Committee. Councillor Coultas declared a non-pecuniary interest in Minute 14(3), as the Chair of the Darlington Credit Union.

Councillor Macnab declared a non-pecuniary interest in Minute 15(1) as the Secretary of the Friends of the Stockton and Darlington Railway, and as a member of the Darlington Railway Preservation Society.

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

**12. ANNOUNCEMENTS – (1) Councillor Mrs. Culley** – The Mayor extended a warm welcome to Councillor Mrs. Culley, who was attending her first meeting of the Council.

**(2) Queen’s Birthday Honours** – The Mayor reported that Councillor Ian Galletley, had been admitted as a Member of the British Empire for voluntary political service.

The Mayor also reported that Michael Matthews, European Operations Officer and Managing Director, Nifco UK, and a resident of Darlington, had been admitted as a Member of the British Empire for services to business.

Members were informed that Mrs. Agnes Gardiner, a Personal and Family Support Worker, RAF Leeming, SSAFA, and a resident of Darlington, had been awarded the British Empire Medal for services to Service Personnel.

Finally, the Mayor reported that Chief Constable Michael Barton, Durham Constabulary, had been awarded the Queen's Police Medal.

**13. 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.

**14. COUNCIL REPORTS – (1) Constitutional Changes** – The Chief Executive submitted a report (previously circulated) to give consideration to changes to the Constitution which were necessary to give effect to legislation, and also summarised the changes to the Constitution that had already been made as result of earlier reports. The submitted report also requested a slight change in respect of Cabinet Portfolio responsibility.

The submitted report stated that the Constitution needed to be updated to reflect and comply with new legislation in relation to changes to permit the filming, photographing, recording broadcasting and blogging of any meeting of the Council open to the public, and to amend its arrangements in relation to access to information and the recording of delegated decisions made by officers in terms of a number of categories of decision making.

The submitted report also identified amendments in relation to the Scrap Metal Dealers Act 2013, and in respect of decision making concerning pay and severance payments for Senior Officers. The report outlined changes to the Audit Committee's terms of reference due to recent CIPFA Guidance, and to add responsibility for ethical values. It was also proposed that responsibility for Rights of Way be moved from the Cabinet Member with the Leisure and Local Environment Portfolio to the Cabinet Member with the Transport Portfolio.

**RESOLVED** – (a) That the Access to Information Procedure Rules be amended to include the rights relating to reporting, filming, photographing, recording, broadcasting and blogging of Council Meetings, and that the following provision be inserted:

‘Anybody attending a meeting, that is held in public, can photograph, film, record and broadcast the meeting (or part of the meeting), including by digital and social media.’

(b) That the Access to Information Procedure Rules are amended to make specific reference to disorderly conduct by an individual and relating to general disturbance, and that the following provisions be inserted:

‘If any person interrupts or disrupts the proceedings of any meeting the person presiding shall warn him/her. If he/she continues to interrupt or disrupt the meeting the person presiding shall order him/her to leave the room where the meeting is being held. If he/she does not leave, the person presiding shall order him/her to be removed. If a member of the public persistently creates a disturbance, the person presiding may adjourn the meeting for an appropriate time’

‘In the event of general disturbance which is disruptive of proceedings the person presiding may order the part or the room open to the public to be cleared and may adjourn the meeting for an appropriate time’

(c) That the Council’s Scheme of Delegation to Officers be amended to reflect new requirements about delegated decisions made by officers, and that the following provision be inserted:

#### Written Records and Publicity

‘The officer making a decision under delegation, from Council (rather than Cabinet) must produce a written record of any decision which:

- (i) is a specific express (rather than general) delegation,
- (ii) Grants a permission or licence,
- (iii) Affects the right of an individual, or
- (iv) Awards a contract, or Incurs expenditure which in either case materially affects the Council’s financial position

The officer making a decision under delegation, from Cabinet must produce a written record of any decision which is sufficiently important or sensitive that the public would expect that decision to have been taken by an elected member decision making body, such as Cabinet rather than an officer using delegated powers:

A written decision record must be completed as soon as is reasonably practicable after the decision has been made. The decision record must be publically available for inspection and posted on the website (together with any background papers). The decision record must include, the date of the decision, the reasons, details of any alternative options considered and rejected and details of any conflict of interest declared (for instance of a Cabinet portfolio holder who was consulted).’

(d) That Schedule 1 of the Constitution (Councils Committees) be amended to reflect the new arrangements for dealing with applications, variations and revocations of

licences under the Scrap Metal Dealers Act 2013, and that the following to be inserted:

‘General Licensing Sub Committee

Darlington Borough Council Membership 3

Total Membership 3

Quorum 3

Protocols

Members are drawn from the General Licensing Committee

Terms of Reference

‘To hear and determine contested applications, renewals, variations and revocations of licences under the Scrap Metal Dealers Act 2013’

(e) That the Council’s Scheme of Delegation to Officers be amended to add:

Exceptions - Finance

‘To determine charges for licensing scrap metal dealers and mobile collectors and site licences. The Director of Economic growth’

Exceptions – Legal exceptions

‘All powers and functions in respect of the Scrap Metal Dealers Act 2013 (except contested licensing applications, variations and revocations, which are dealt with by a Sub Committee of the General Licensing Committee) Assistant Director Regulatory Services’

(f) That the Council’s Scheme of Delegation to Officers, Exceptions Table – Staff and Employment be amended to add:

‘The advertising of any posts with a salary package in excess of £100,000. Requires Council decision’

‘Severance package in excess of £100,000. Requires Council decision’

(g) That Schedule 1 of the Constitution (Councils Committees) be amended to replace the Audit Committee terms of reference with those set out in Appendix 1 of the submitted report, to reflect new CIPFA Guidance and changes occasioned by the Audit Committee taking on some of the functions for the ethical agenda, following the abolition of the Standards Committee.

(h) That Schedule 2 of the Responsibility for Functions be amended to move the responsibility for rights of way from the Cabinet Member with portfolio responsibility for Leisure and Local Environment to the Cabinet Member with responsibility for Transport.

(i) That Council note the other changes to the Constitution have been made by the Assistant Director Chief Executive's during the course of the year, as set out in the main body of the report.

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

(b) To absorb new responsibilities.

(c) To reallocate Cabinet Portfolio responsibility to better reflect the specialist area of responsibility.

(d) To ensure that the Council's Constitution remains accurate and up to date.

**(2) Polling Districts, Polling Places and Polling Stations Review –** The Chief Executive submitted a report (previously circulated) to give consideration to a review of Polling Districts, Polling Places and Polling Stations to comply with the requirements of the Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006, as amended by the Electoral Registration and Administration Act 2013, in advance of the Local and Parliamentary Elections in May 2015.

The submitted report stated that all local authorities had a duty to review Polling Districts and Polling Places every four years, and outlined the proposed content and structure of the review, the timescales involved, and a suggested programme of consultation.

**RESOLVED –** That the structure of the process and timetable of Polling Districts, Polling Places and Polling Stations, the timescales involved, and the suggested programme of consultation, as detailed at Appendix A of the submitted report, be endorsed.

**REASON –** To comply with the requirements of the Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006, as amended by the Electoral Registration and Administration Act 2013.

**(3) Supporting Credit Unions –** The Chief Executive submitted a report (previously circulated) to request that Members pledge to support Credit Unions, and in particular, the Darlington Credit Union.

The submitted report stated that the Association of North East Councils (ANEC) hosted a seminar in Darlington in January 2014, on the role of Credit Unions, and that following the seminar Leaders and Elected Mayors from across the North East had considered ways in which local authorities could support the Credit Union sector to develop as an accessible and sustainable source of banking and credit, and had endorsed a statement that invited all authorities to sign up to a pledge.

**RESOLVED** – (a) That Members recognise the vital role that Credit Unions have to play in promoting financial inclusion, in acting as a trusted source of accessible and affordable banking and credit, and in providing an essential alternative to high-cost lenders.

(b) That Members undertake to work with the Credit Union sector to help it expand in a sustainable way, to increase its membership, and to develop a diverse and balanced customer base; and we will take practical measures to achieve this goal.

**REASONS** – (a) To promote financial inclusion and tackle poverty in Darlington.

(b) To support appropriate saving and, where appropriate, low cost lending options.

(c) To break the cycle of financial hardship and crisis faced by families within the Borough.

**(4) Home Equipment Loans Contract** – The Director of People submitted a report (previously circulated) requesting that Contract Procedure Rules be waived under Rule 18 for the supply and installation of equipment which enables individuals to live independently and safely in their own home.

The submitted report stated that the Home Equipment Loans Contract (HELs) was provided by County Durham and Darlington Foundation Trust (CDDFT), and supplied and installed equipment which enabled individuals to live independently and safely in their own home. It was highlighted that the current contract came to an end on 31 March 2014, and that the Council had a duty to provide equipment where there was an assessed eligible need, and therefore a provision for the service, moving forward, was required.

The submitted report informed Members that a joint service review of HELs was being conducted, and therefore it was requested that the HELs contract be renewed for 15 months to allow the current review to be completed, and the subsequent procurement process to take place.

**RESOLVED** – That the HELs contract be renewed for 15 months to allow the current review to be completed, and the subsequent procurement process to take place to enable a further competitively priced contract to be put in place.

**REASONS** – (a) To enable the Council to take part in a joint procurement with other commissioners.

(b) To achieve greater savings in the contracting process through the greater buying powers of the other organisations.

(c) To better facilitate service improvements as part of the wider joint working between the Council and health services.

**(5) Local Government Pension Scheme Discretions** – The Director of Neighbourhood Services and Resources submitted a report (previously circulated) requesting approval on the discretions to be incorporated into a Discretions Policy, in line with the regulation requirements of the revised Local Government Pension Scheme (LGPS), which came into force on 1 April 2014.

The submitted report stated that, under the regulations that govern the Local Government Pension Scheme from 1 April 2014, scheme employers were required to prepare and publish a written policy in relation to five specific choices or discretions that they had. The submitted report made recommendations in relation to each discretion.

**RESOLVED** – That the five key discretions, as detailed in Appendix 1 of the submitted report, for inclusion in the LGPS 2014 and Local Provisions Policy, be approved.

**REASON** – To comply with the regulation requirements of the Local Government Pension Scheme 2014.

**(6) Contract Extensions** – The Director of People submitted a report (previously circulated) requesting that Contract Procedure Rules be waived to extend the contract for a further period in respect of two contracts for two services, due to the exceptional circumstances created by the implementation of the Health and Social Care Act 2012, and national changes to the intentions for commissioning Children's Services.

The submitted report stated that the Health and Social Care Act 2012 gave local authorities a duty from 1 April 2013 to take steps to improve and protect the health of their residents. It was reported that, for transitional purposes, on 31 January 2013, this Council waived Contract Procedure in accordance with Rule 18 for particular contracts in relation to Public Health services and responsibilities that were transferred to this local authority on 1 April 2013. The submitted report stated that, due to national changes to the intention for Children's Services, it was appropriate to align Children's Services for 5-19 Years with the services for 0-5 Years, to create an integrated 0-19 Years pathway for early intervention and prevention service in Darlington, and the requested contract extension would enable this to happen.

The submitted report also stated that a contract extension of six months for the NHS Health Checks contract would enable the Council to align the service with other Public Health Contracts.

**RESOLVED** – That Contract Procedure Rules be waived in accordance with Rule 18 to grant a further 12 month contractual extension for Children's Services for 5-19 year olds service and a further six month contractual extension for NHS Health Checks.

**REASONS** – (a) To ensure sufficient time to undertake robust reviews and development of commissioning intentions so that efficient service models are commissioned which are evidenced based and affordable.

(b) To ensure sufficient time for robust procurement to be undertaken including lead in time for providers to set up services and for the management of TUPE implications.

(c) To ensure that the contract for Children’s Services for 5-19 years are re-procured at a point in time when the Local Authority has responsibility for the whole pathway for children aged from 0-19 years.

(d) To ensure that the contracts NHS Health Checks are re-procured in a robust way that ensures fairness and transparency, in line with ‘Any Qualified Provider’ (AQP) framework to enable a range of potential other providers to offer this service to improve accessibility across the Borough of Darlington.

**(7) Feethams Programme – Bus and Coach Improvements** – The Director of Economic Growth submitted a report (previously circulated) requesting that Contract Procedure Rules be waived under Rule 18 to enable the delivery of improved bus and coach infrastructure in Feethams.

The submitted report outlined that there were a number of projects in the Feethams area that formed the Feethams programme, and highlighted that the Bus and Coach Passenger Waiting Facilities Improvement Project was a key element of the programme which would help address issues experienced by bus and coach passengers in the town centre. It was reported that the majority of the work would be undertaken as part of the normal highway construction programme, however that the modification to the Town Hall forecourt retaining wall to create steps required specialist design and construction.

The submitted report stated that a procurement exercise had been undertaken, however only one tender was received, which was a non-compliant tender, and therefore significant time had been lost in the development programme. It was reported that a design and build approach had become the preferred procurement route, and that a direct award to a Member of the North East Highway Alliance under a Service Level Agreement had the benefit of recovering an element of the lost time, and allowed access to frameworks and contracts previously procured that were not available to Darlington Borough Council.

**RESOLVED** – That Contract Procedure Rules be waived under Rule 18 to make a direct award to a Member of the North East Highway Alliance under a Service Level Agreement enabling delivery of the project within the funding constraints.

**REASON** – The scheme will reduce traffic congestion on Tubwell Row and development in the Feethams area is likely to attract more demand for bus facilities. The project will improve passenger waiting facilities for bus and coach passengers.



**15. CABINET REPORTS – (1) Overview Reports of Cabinet Members –** The 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) Civic Theatre Restoration Update –** The Director of Neighbourhood Services and Resources submitted a report (previously circulated) which updated Members on the progress with regard to the restoration project for the Civic Theatre and Heritage Lottery Fund (HLF) application, and requested approval to underwrite the £1.6m fundraising target.

The submitted report outlined that a levy had been introduced, two adjacent shop units had been purchased, a HLF application had been submitted, and that work had been undertaken to review the most appropriate way of fundraising for the restoration project. The submitted report highlighted recommendations agreed by the Cabinet at its meeting on 1 July 2014, which included a referral to Council to consider the underwriting of the £1.6m fundraising target.

**RESOLVED –** That the Council underwrite the £1.6 million fundraising target for the project outlined in paragraph 15 of the submitted report.

**REASONS –** (a) To encourage further fundraising from a non-Council body and to provide advocacy for the Civic Theatre.

(b) To enable the Restoration Project to move forward to the next stage.

**(3) Treasury Management Annual Report and Outturn Prudential Indicators 2013/14 –** The Director of Neighbourhood Services and Resources submitted a report (previously circulated) which provided information in relation to the regulation and management of the Council's borrowing, investments and cash-flow. The submitted report also sought approval of the Prudential Indicators results for 2013/2014, in accordance with the Prudential Code.

The submitted report outlined the circumstances with regard to treasury management for 2013/2014. It was reported that investments were only made where there was low risk. It was stated that this manifested itself in a continued reliance on internal borrowing, which in turn had had a positive effect of the Medium Term Financial Plan's financing costs as investment rates were lower than borrowing rates.

The submitted report stated that the Council had complied with its legislative and regulatory requirements, and that the need for borrowing was only increased for capital purposes.

The submitted report stated that at 31st March 2014, the Council's external debt was £120.161m, which was £8.000m more than the previous year. It was reported that the average interest rate for borrowing was up to 3.92%, from 3.42% in 2012/13, and that investments totalled £31.743m at 31st March 2014, in comparison to £16.454m

at 31st March 2013, earning interest of 0.59% on short term investments, and 1.02% on longer term investments.

**RESOLVED** – (a) That the outturn 2013/14 Prudential Indicators contained within the submitted report, and within Appendix 1 of the submitted report, be noted.

(b) That the Treasury Management Annual Report for 2013/14, be noted.

**REASONS** – (a) In order to comply with the Prudential Code for Capital Finance in Local Authorities.

(b) To inform Members of the performance of the Treasury Management Function.

(c) To comply with the requirements of the Local Government Act 2003.

**(4) Children and Young People’s Plan 2014-2017** - The Director of People submitted a report (previously circulated) requesting that consideration be given to the draft Children and Young People’s Plan 2014-2017, as recommended by Cabinet on 1 July 2014.

The submitted report noted that the Council and partner organisations had recently agreed a new Sustainable Community Strategy (SCS) for Darlington, and that the Children and Young People’s Plan identified the key actions to be taken to deliver the agreed SCS priority of ‘the best start in life for every child’.

**RESOLVED** – That the draft Children and Young People’s Plan 2014-2017 be approved.

**REASON** – To comply with the Council’s Policy Framework.

**(5) Partnering with Darlington Clinical Commissioning Group** - The Chief Officer Executive submitted a report (previously circulated) requesting that consideration be given to changes to the Council’s Senior Management Structure, as a result of agreement by the Cabinet to partner with the Darlington Clinical Commissioning Group.

The submitted report stated that the Cabinet had approved the Proof of Concept on partnering with Darlington Clinical Commissioning Group at its meeting on 1 July 2014, and had authorised continued work to develop the implementation model. It was also reported that the Cabinet had recommended changes to the Council’s Senior Management Structure.

**RESOLVED** – (a) That a new post of Director of Commissioning be created to replace the Director of People Services.

(b) That the role of Assistant Director (Commissioning) be redesignated to the Assistant Director (Transformation).

(c) That the role of Assistant Director Children's Services be redesignated to Service Director - Children's Services.

(d) That the role of Assistant Director (Chief Executive) be redesignated to Assistant Chief Executive.

(e) That the appointment of Murray Rose to the post of Director of Commissioning until 31st March 2016, and his retirement from that date, be approved.

**REASON** – To ensure progress in delivering the Council's vision and Medium Term Financial Plan, and to enable the Council to contribute to the wider goals of the Darlington Partnership.

**(6) Cabinet Urgent Decisions** – The Chief Officer Executive submitted a report (previously circulated) detailing one 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.

**16. 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.

**17. MEMBERSHIP CHANGES** – Consideration was given to membership changes of the Committees, Subsidiary Bodies and Other Bodies for the remainder of the Municipal Year 2014/15.

**RESOLVED** – (a) That the Chair of the Adults and Housing Scrutiny Committee be appointed to the vacancy on the Community Interest Company of the Combined Fire Authority.

(b) That Councillor B. Jones be replaced on the Adults and Housing Scrutiny Committee by Councillor Mrs. Culley.

(c) That Councillor Grundy be replaced on the Place Scrutiny Committee by Councillor Mrs. Culley.