

CABINET AGENDA

Tuesday, 25 April 2017 at 10.00 am in the Blaydon Room - Civic Centre

From the Chief Executive, Sheena Ramsey

Item Business

1 **Apologies for absence**

2 **Minutes** (Pages 5 - 10)

Cabinet is asked to approve as a correct record the minutes of the last meeting held on 14 March 2017.

Key Decisions

3 **Strategic Acquisition in the Exemplar Neighbourhood** (Pages 11 - 18)

Report of the Strategic Director, Corporate Services and Governance and Strategic Director, Communities and Environment

4 **Local Transport Plan: Capital Programme update** (Pages 19 - 46)

Report of the Strategic Director, Communities and Environment

5 **Tenders for the Supply of Goods and Services** (Pages 47 - 52)

Report of the Strategic Director, Corporate Service and Governance

Recommendations to Council

6 **Interim Senior Management Arrangements - Care, Wellbeing and Learning**
(Pages 53 - 56)

Report of the Strategic Director, Corporate Services and Governance

7 **2017 - 2018 Statutory Intervention Plan for the Food Control and Health & Safety services** (Pages 57 - 86)

Report of the Strategic Director, Communities and Environment

Non Key Decisions

8 **Responses to Consultation** (Pages 87 - 140)

Report of the Chief Executive

- 9 **Primary and Secondary Community, Community Controlled School Admissions Arrangements and Co-ordinated admission schemes for Primary and Secondary Schools for 2018/19** (Pages 141 - 184)
- Report of the Chief Executive
- 10 **Proposals for School Term Dates 2018/19** (Pages 185 - 190)
- Report of the Chief Executive
- 11 **Overview of the Regional Adoption Agency development** (Pages 191 - 198)
- Report of the Chief Executive
- 12 **Team Valley Flood Alleviation and Water Meadows (TVFA) - Outline ERDF Application** (Pages 199 - 204)
- Report of the Strategic Director, Communities and Environment
- 13 **Tyne and Wear Archives and Museums - Joint Agreement and New Governance Arrangements** (Pages 205 - 288)
- Report of the Strategic Director, Communities and Environment and Strategic Director, Corporate Services and Governance
- 14 **Hackney Carriage Fare Maxima** (Pages 289 - 296)
- Report of the Strategic Director, Communities and Environment
- 15 **Council Tax and Non-Domestic Rates - Transfer of Uncollectable Amounts** (Pages 297 - 300)
- Report of the Strategic Director, Corporate Resources
- 16 **Surrender of Lease : Sunderland Road Library and Recreation Ground.** (Pages 301 - 306)
- Report of the Strategic Director, Corporate Services and Governance
- 17 **Petitions Schedule** (Pages 307 - 310)
- Report of the Strategic Director, Corporate Services and Governance
- 18 **Exclusion of the Press and Public**

The Cabinet may wish to exclude the press and public from the meeting during consideration of the following item(s) on the grounds indicated:

Item	Paragraph of Schedule 12A to the Local Government Act 1972
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20	3
21	3
22	3

Key Decisions

- 19 Speculative Office development in Baltic Business Quarter (Pages 311 - 316)**
Report of the Strategic Director, Communities and Environment
- 20 Northern Centre for Emerging Technologies (Pages 317 - 322)**
Report of the Strategic Director, Communities and Environment
- 21 Estate Renewal - Felling (Pages 323 - 340)**
Report of the Strategic Director, Communities and Environment
- 22 Gateshead Regeneration Partnership portfolio of sites (Pages 341 - 346)**
Report of the Strategic Director, Communities and Environment

Contact: Kevin Ingledew Email: keviningledew@gateshead.gov.uk, Tel: 0191 4332142,
Date: Thursday, 13 April 2017

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GATESHEAD METROPOLITAN BOROUGH COUNCIL

CABINET MEETING

Tuesday, 14 March 2017

PRESENT: Councillor M Gannon

Councillors: C Donovan, M Brain, A Douglas, M Foy,
L Green, G Haley, J McElroy, M McNestry and L Twist

C196 MINUTES

The minutes of the last meeting held on 21 February 2017 were approved as a correct record and signed by the Chair.

C197 FABRIC WORKS AND HEIGHTS COMBINED DELIVERY PROPOSAL

Consideration has been given to the award of a construction contract to Wilmott Dixon Construction via the SCAPE Major Works Framework, for delivery of fabric works to be undertaken alongside the High Rise Energy Infrastructure for Gateshead Housing Tenants(HEIGHTs) project comprising:

- Window replacement for all Harlow Green high rise blocks
- Façade replacement and replacement windows at Regent Court.

- RESOLVED -
- (i) That the entering into a delivery agreement with Wilmott Dixon Construction via the SCAPE Major Works Framework, for combined delivery of the HEIGHTs project and associated fabric measures be approved.
 - (ii) That delegated authority be given to the Strategic Director, Communities and Environment, following consultation with the Strategic Director, Corporate Resources, to agree the final terms, scope and costs of the contract awards.

The above decisions have been made for the following reasons:

- (A) To continue to deliver Council priorities around reducing fuel poverty, energy consumption and sustaining tenancies.
- (B) To maximise efficiencies through combining fabric improvements with ERDF grant funded works that will support capital investment as part of the Council's Capital Programme.
- (C) To improve the Council's assets and ensure that the Council's Housing stock remains fit for purpose and deliver a sustainable HRA.

C198 RECRUITMENT AND RETENTION OF SOCIAL WORKERS, CHILDREN & FAMILIES SOCIAL WORK

Consideration has been given to the implementation of a recruitment and retention allowance for Social Workers, Children's and Families Social Work.

RESOLVED - That the recruitment and retention allowance for Social Workers, Children's and Families Social Work, as set out in the report be approved.

The above decision has been made to achieve strong retention and recruitment and to support the employer practice endorsement.

C199 CHARGING AND FINANCIAL ASSESSMENT FOR ADULT CARE AND SUPPORT SERVICES

Consideration has been given to recommending the Council to approve the policy on Charging and Financial Assessment for Adult Care and Support Services which follows consultation.

The alternative option to that being recommended, but which was discounted, included a cap on the weekly contribution rate at a level aligned to the residential care fee rate.

RESOLVED - That the Council be recommended to approve the proposed policy for Charging and Financial Assessment for Adult Care and Support Services as set out in appendix 2 to the report.

The above decision has been made for the following reasons:

- (A) To meet the statutory requirements of the Care Act 2014 and the regulations made under it.
- (B) To provide a transparent, consistent and fair framework for the provision for charging and financial assessment for all adults receiving care and support services.

C200 TREASURY POLICY STATEMENT AND TREASURY STRATEGY 2017/18 TO 2019/20

Consideration has been given to recommending the Council to approve the Treasury Policy Statement and Treasury Strategy for 2017/18 to 2019/20.

RESOLVED - That the Council be recommended to approve the Treasury Policy Statement and the Treasury Strategy as set out in appendices 2 and 3 to the report.

The above decisions have been made for the following reasons:

- (A) To provide a framework for the Strategic Director, Corporate Resources to exercise his delegated powers.
- (B) To ensure that the Council fully complies with the requirements of good financial practice in Treasury Management.

C201 DISCRETIONARY RATE RELIEF POLICY

Consideration has been given to recommending the Council to approve a revised Discretionary Rate Relief policy which follows consultation.

RESOLVED - That the Council be recommended to:

- (i) Approve the proposed Discretionary Rate Relief policy as set out in the report for implementation from 1 April 2017.
- (ii) Delegate powers to the Strategic Director, Corporate Resources to administer this policy.

The above decisions have been made for the following reasons:

- (A) To establish a Discretionary Rate Relief policy under the statutory provisions of Local Government Finance Act 1988 (S.47) and the Localism Act 2011 (S.69).
- (B) To provide a policy that supports the residents of Gateshead and is based upon ability to pay.

C202 REVISED APPRAISAL AND DEVELOPMENT FRAMEWORK

Consideration has been given to recommending the Council to approve a revised Appraisal and Development Framework.

RESOLVED - That the Council be recommended to approve:

- (i) The revised Appraisal and Development Framework as set out in appendices 2 and 3 to the report.
- (ii) The framework becomes operational from 1 April 2017.

The above decisions have been made for the following reason:

To ensure the Council has a workforce which is fit for the future and can deliver the objectives of the Council Plan.

C203 LOCALISM ACT 2011 - PAY ACCOUNTABILITY PAY POLICY STATEMENT

Consideration has been given to recommending the Council to approve a Pay Policy Statement for 2017/18.

RESOLVED - That the Council be recommended to approve the Pay Policy Statement for 2017/18 as set out in appendix 2 to the report.

The above decision has been made to comply with the Localism Act 2011.

C204

HOME ENERGY CONSERVATION ACT (HECA) - PROGRESS REPORT

Consideration has been given to the biennial progress update in relation to the Home Energy Conservation Act (1995) Further Report approved by Cabinet on 24 March 2015 and to approving a revised Further Report to be implemented for 2017-2019.

- RESOLVED -
- (i) That the Home Energy Conservation Act biennial update and revised Further Report as set out in appendices 2 and 3 be approved and submitted to the Department for Business, Energy & Industrial Strategy prior to 31 March 2017.
 - (ii) That both reports be published on the Council's website.
 - (iii) That the next update be submitted to Cabinet in March 2019.

The above decisions have been made for the following reasons:

- (A) To meet the Council's statutory obligations under the Home Energy Conservation Act (1995).
- (B) To continue improving the energy efficiency of both social and private housing in Gateshead.
- (C) To continue reducing incidences of fuel poverty in Gateshead, in line with corporate priorities.
- (D) To reduce CO₂ emissions from the domestic sector.

C205

GATESHEAD FUND (CAPACITY BUILDING FUND)

Consideration has been given to the advice of Capacity Building Fund Advisory Group specifically in respect of:

- Round 3 applications for capacity building funding
- Sporting Grants to Individuals
- The Research Project progress report designed to grow and develop the Gateshead Fund.

- RESOLVED -
- That the advice of the Capacity Building Fund Advisory Group from the meeting held on 16 February 2017 be endorsed and specifically:
- (i) The recommendations for Round 3 Capacity Building Fund as set out in appendix 2 paragraph 4 and appendix 3 of the report.
 - (ii) The recommendations for Sporting Grants to Individuals as set out in appendix 2 paragraph 4 of the report.
 - (iii) The progress report, timeline and outcomes for the research project designed to grow and develop the Gateshead Fund as set out in appendix 2 paragraph 3 and appendix 4 of the report.

The above decisions have been made for the following reasons:

- (A) To ensure that the Gateshead Fund is used to maximise

benefits to local communities and is managed effectively.

- (B) To build capacity and sustainability in voluntary and community organisations in Gateshead.

C206 MISCELLANEOUS INCOME, TRANSFER OF UNCOLLECTABLE AMOUNTS

Consideration has been given to the transfer out of the Council's Accounts outstanding balances in excess of £500 from miscellaneous income accounts and also Housing Benefits overpayments, where all possible recovery action has been taken and the balances are now considered to be uncollectable.

- RESOLVED -
- (i) That the transfer of balances on 75 sundry debtor accounts, amounting to £187,132.47 and 176 Housing Benefits overpayments accounts, totalling £270,607.57 be approved.
 - (ii) That the action taken under delegated powers to transfer out of the Council's accounts 512 sundry debtor balances totalling £48,897.57 and 1017 Housing Benefit overpayment balances totalling £91,633.49 be noted.

The above decisions have been made for the following reasons:

- (A) To ensure the effective management of the Council's resources.
- (B) To ensure that the Council Accounts accurately reflect the correct financial position.

C207 FREEDOM OF INFORMATION ANNUAL REPORT

Consideration has been given to the Freedom of Information Annual Report 2016 which details the number of requests received by the Council between 1 January and 31 December 2016 and provides analysis of these and how the Council has complied with its statutory obligations under the Freedom of Information Act.

- RESOLVED -
- (i) That the Freedom of Information Annual Report for 2016 as set out in appendix 1 to the report be approved.
 - (ii) That the report be referred to the Corporate Resources Overview and Scrutiny Committee on 3 April 2017 for consideration.

The above decisions have been made to have an effective and timely system for dealing with requests for information which ensures the Council is compliant with the relevant legislation.

C208 SURPLUS DECLARATION OF THE FORMER DEPOT AND ENVIRONS, CHASE PARK, WHICKHAM

Consideration has been given to the former depot and environs, Chase Park, Whickham being declared surplus to the Council's requirements.

- RESOLVED -
- (i) That the property as detailed in the plan attached to the report be declared surplus to the Council's requirements.

- (ii) That the Service Director, Legal, Democratic and Property Services be authorised to dispose of the property on the open market.

The above decisions have been made to manage resources and rationalise the Council's assets in line with the Corporate Asset Strategy and Management Plan.

C209 GRANT OF A LEASE - 107/109 COATSWORTH ROAD, BENSHAM

Consideration has been given to the grant of a lease of 107/109 Coatsworth Road, Bensham.

RESOLVED - That the Strategic Director, Corporate Services and Governance be authorised to proceed with a 35 year lease to 19 Plus CIC, subject to the rental terms set out in the report, pursuant to the Councils Community Asset transfer policy.

The above decisions have been made to manage resources and rationalise the Council's assets in line with the Corporate Asset Strategy and Management Plan.

C210 PETITIONS SCHEDULE

Consideration has been given to an update on petitions submitted to the Council and the action taken on them.

RESOLVED - That the petitions received and the action taken on them be noted.

The above decision has been made to inform Cabinet of the progress of the petitions received.

Copies of all reports and appendices referred to in these minutes are available online and in the minute file. Please note access restrictions apply for exempt business as defined by the Access to Information Act.

The decisions referred to in these minutes will come into force and be implemented after the expiry of 3 working days after the publication date of the minutes identified below unless the matters are 'called in'.

Publication date: 16 March 2017

Chair.....

TITLE OF REPORT: Strategic Acquisition in the Exemplar Neighbourhood

REPORT OF: Mike Barker, Strategic Director, Corporate Services and Governance
Paul Dowling, Strategic Director, Communities and Environment

Purpose of the Report

1. To seek Cabinet approval to purchase land within the Exemplar Neighbourhood, in Central Gateshead, to consolidate the Council's land ownership and provide a more developable and valuable site for new housing development.

Background

2. The Exemplar Neighbourhood (ExNe), in Bridges ward, is allocated for housing led regeneration in the Core Strategy and Urban Core Plan (2014). The Council owns the majority of land within ExNe, however, a number of smaller sites are owned by private landowners.
3. The 0.4 hectare site of the former Heaton Paper Company ("the Site") is privately owned and is located at the centre of the ExNe. It is shown for identification purposes only as edged red on the attached plan at Appendix 2.
4. At its meeting of 18 November 2008, Cabinet agreed to commence the procurement of a Joint Venture partner to deliver housing regeneration across the borough; and were presented with the 19 sites to be allocated to the Joint Venture vehicle.
5. The Site, and adjacent land owned by the Council, are known collectively as Sunderland Road West, and formed one of the 19 sites which have been allocated to the Joint Venture, called Gateshead Regeneration Partnership (GRP) for housing development. The site has capacity for approx. 200 new homes.
6. On 27 March 2012, Cabinet approved the formation of the GRP, the appointment of Evolution Gateshead as the Council's partner and the execution of the Members Agreement. The Members Agreement endeavours the Council to assemble land within the agreed 'red line' boundaries of these 19 allocated sites.
7. To the north of the Site lies vacant land (the former Chandless council housing estate), which was demolished between 2012-2015. This land is also allocated for housing, with capacity for approximately 150 homes, and the Council will make a decision on its future later in 2017.
8. The Exemplar Neighbourhood Project is allocated in the 2017/18 Capital Programme for strategic acquisitions to consolidate Council land ownership to

facilitate housing growth. In November 2016, the Council instructed its property agent BNP Paribas to conduct a valuation of the Site, which concluded that a land value of between £250,000 and £300,000 was realistic. Subsequently, the Council's agent made contact with the landowner, and began exploratory dialogue to determine whether an offer to purchase the Site would be welcome, and at what price. Following this contact, the agent has now informed the Council that an offer of £300,000 would secure the sale and provisional acquisition terms have been agreed.

9. The current landowner's proposed development scheme for the Site comprises a residential estate of 20 dwellings which will be made up of 16 one bedroom Gemini bungalows and 4 two bedroom semi-detached houses. Vehicle access will be from Eldon Street reached via the A184 (Felling Bypass) through the former Chandless estate, with a secondary pedestrian access to the north west corner which will lead on to Lindisfarne Drive. In October 2016, this scheme was granted outline planning permission.
10. As it stands currently, the Site remaining in private ownership and the planning permission being implemented, will have a negative impact on the wider aspirations for quality, family homes on the Exemplar Neighbourhood (see Appendix 1, para. 2) and the two neighbouring Council development sites – the former Chandless estate and Sunderland Road West.
11. If the proposed development was pursued the landowner would require the right of access to his land, currently via Lindisfarne Drive across Council land. This would be a constraint on future development of the Council owned land as access must be maintained to the site at all times, which would:
 - reduce the developable area of the Council's land,
 - create an inefficient construction process by needing to maintain a route through a working site that protects the health and safety of vehicles and pedestrians, and
 - limit the ability to create a new neighbourhood and road layout to optimise the use of the wider site.

Proposal

12. It is proposed that the Council purchases the Site now, in advance of implementation of the landowner's planning approval, and the delivery of new homes in the ExNe by GRP, so that the Council will ensure the maximum possible return on its investment, ensuring that the price is best value, and the wider site is able to be planned and constructed in the most creative and efficient manner.

Recommendations

13. It is recommended that Cabinet:
 - (i) approves the acquisition of the site of the former Heaton Paper Company for the provisional sum of £300,000, subject to contract and the outcome of a site investigation, and

(ii) authorises the Strategic Director, Corporate Services and Governance, to agree the final price within a budget of £310,000, and then complete the purchase of the former Heaton Paper Company site.

For the following reasons:

- To achieve maximum value from Council land assets and facilitate the best possible development on the Exemplar Neighbourhood
- To support the delivery of the objectives of the Exemplar Neighbourhood
- To consolidate land ownership in the Exemplar Neighbourhood
- To support delivery of new homes, with Gateshead Regeneration Partnership.

CONTACT: Steve Hayles extension: 3466
Andrew Sloan extension 3425

Policy Context

1. The project directly supports the delivery of Vision 2030, specifically the big ideas of City of Gateshead and Sustainable Gateshead.
2. The project directly supports the goal of a Prosperous Gateshead in accordance with the 2015-20 Council Plan, and the implementation of the Core Strategy and Urban Core Plan (CSUCP). Policy SG2 of the CSUCP allocates and sets out requirements for the Exemplar Neighbourhood, superseding or replacing some of the SPD objectives:
 - 1) The Exemplar Neighbourhood is allocated for a minimum of 1000 homes (C3) at an average of 50 dwellings per hectare across the site.
 - 2) Development will provide a new sustainable neighbourhood through:
 - i. Provision of small-scale ancillary uses that support the needs of the new community including small shops, cafes and community facilities along primary pedestrian routes and other main routes,
 - ii. Mixed-use development which will be directed to the ground floors of development on sites along the route of the future City Boulevard,
 - iii. Developing a scheme that achieves “green” against all Building for Life 12 questions or equivalent,
 - iv. Provision of good quality accessible external private or semi-private space
 - v. Creation of the Exemplar Neighbourhood Urban Green Infrastructure Corridor, meeting the following criteria: minimum corridor width of 10m, encompassing a footpath with a minimum width of 3m, an avenue of trees and at least 2 usable multifunctional open green spaces,
 - vi. Creation of the Primary Pedestrian Route, integrated with the green infrastructure corridor, and creating the pedestrian and cycle bridge over the rail line and a pedestrian and & cycle crossing at Park Lane,
 - vii. Provision of a series of connected green and/or public spaces, forming part of the key pedestrian and cycle routes that connect to locations outside the neighbourhood, and
 - viii. Provision of communal parking spaces for car clubs and electric car hook up points to promote sustainable transport.
 - 3) On Council-owned land development will:
 - i. Achieve the minimum space standards set out in English Partnerships Quality Standards. Delivering Quality Places, Revised: from November 2007 or equivalent,
 - ii. Use of Building Research Establishment Green Guide materials at ratings between A to C or equivalent, and
 - iii. Deliver a good level of sustainability required by relevant government schemes/ guidance, aspiring to achieve zero carbon
3. The proposal is consistent with the overall vision for the Exemplar Neighbourhood Supplementary Planning Document (SPD; adopted July 2013):

A new sustainable residential community at the heart of NewcastleGateshead providing contemporary, energy efficient and spacious homes suitable for families, young professionals and older people. A pedestrian friendly network of green spaces and routes will provide a quick and direct access to public transport and all the shopping, working and leisure opportunities that NewcastleGateshead has to offer.

The SPD Objectives are summarised below:

A Neighbourhood with a Special Identity – inventive, attractive and distinctively urban, reflecting its gateway location fronting onto the new Boulevard.

A Family Neighbourhood 'in the City' – higher density form, but with generous internal and external space, with a mix for younger, family and older households.

A Sustainable Neighbourhood – ensuring social, economic and environmental benefits.

A Connected Neighbourhood – good connections to local facilities and green spaces in and around the area, fostering a sense of community.

An Active Neighbourhood – opportunities for exercise, play and amusement built into its fabric.

4. The proposals as set out in this report accord with the provisions of the Corporate Asset Strategy and Management Plan 2015-2020. In particular the development of the Council's land to support regeneration and economic growth.
5. The Council has been awarded Housing Zone status by the Government for the whole ExNe, supported by an investment proposal by the GRP for residential development.

Consultation

6. In preparing this report, consultation has taken place with the Leader, Deputy Leader and Cabinet Members for Housing. Ward Councillors have also been consulted and have raised no objections.

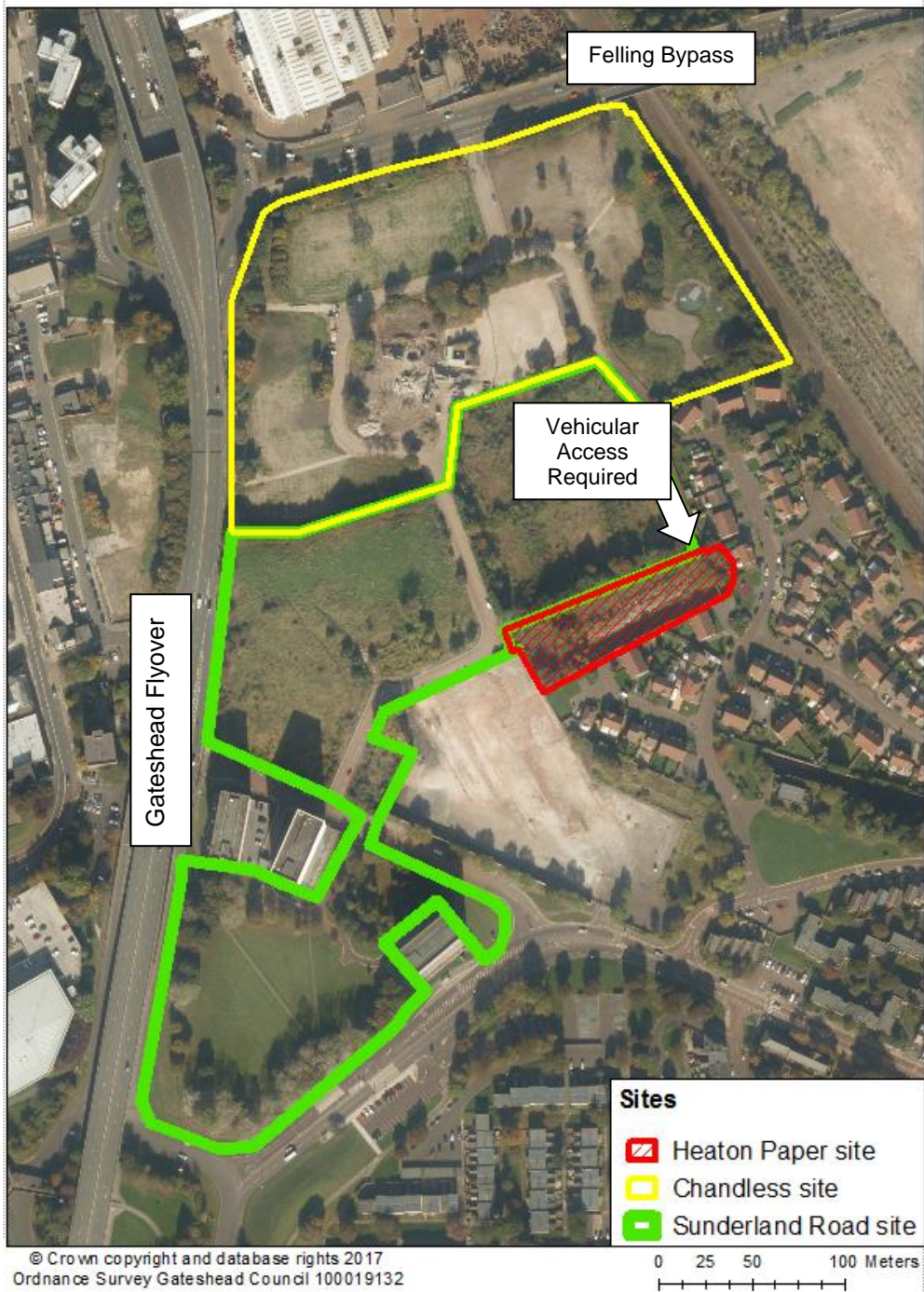
Alternative Options

7. Cabinet could elect not to acquire the former Heaton Paper site. This would leave the site in private ownership, with the potential that the current owner progresses the Outline planning permission granted in October 2016. The development of the scheme would not meet the objectives of the Exemplar Neighbourhood, and would be detrimental to the redevelopment of the wider site, in terms of construction, layout and value. For this reason this option has been discounted.

Implications of Recommended Option

8. **Resources:**
 - a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that the cost of the proposed acquisition, estimated to be £300,000, can be accommodated from within the Council's capital programme.
 - b) **Human Resources Implications** – There are no implications arising from this report
 - c) **Property Implications** – 0.4ha of land will be added to the Council's land portfolio, and will consolidate land holdings within the ExNe, creating one larger site that is allocated to the Gateshead Regeneration Partnership.
9. **Risk Management Implication** – A risk register has been prepared for the project and is being managed by the Project Team. At this stage, the significant risks are:
 - The landowner does not accept the initial offer – the Strategic Director, Corporate Services and Governance, has scope to negotiate on price up to £310,000.
 - The maintenance costs of the site are high/increase – the site is currently secure, with no recorded incidents of anti-social behaviour.
10. **Equality and Diversity Implications** – There are no implications arising from this report.
11. **Crime and Disorder Implications** – There are no implications arising from this report.
12. **Health Implications** - There are no implications arising from this report.
13. **Sustainability Implications** – There are no implications arising from this report. Environmental, economic and social sustainability are key considerations in developing and implementing development on this site in the future. As the Council would be the landowner, it can promote higher standards of development than if it were acting solely as the local planning authority.
14. **Human Rights Implications** – There are no implications arising from this report.
15. **Area and Ward Implications** – Bridges Ward

Appendix 2 - Site Plan



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TITLE OF REPORT: Local Transport Plan: Capital Programme update

REPORT OF: Paul Dowling, Strategic Director, Communities and Environment

Purpose of the Report

1. The report provides an update on progress with the Council's programme of investment in the local transport network, including funding received through the Local Transport Plan (LTP) process. It includes a review of implementing the 2016/17 programme and an outline of the 2017/18 programme for approval.

Background

2. The LTP provides an important source of capital funding for local transport improvements. This includes both structural maintenance of highways and structures and integrated transport improvements. The latter covers a range of works including bus priority, new and improved cycleways, better facilities for pedestrians and disabled people, safer routes to school, traffic calming and road safety improvements. This funding is supplemented wherever possible by funding from Council or other sources such as developer contributions and other capital grants.
3. The financial year 2017/18 will be the seventh year of LTP3, which is the third Local Transport Plan for Tyne and Wear and covers the period from 2011 to 2021. The main priorities of LTP3 are; to maintain and develop the transport network; support the growth of the economy of Tyne and Wear; reduce transport carbon emissions; and contribute to making communities in Tyne and Wear healthier and safer.
4. Investment in the Council's highways infrastructure is identified and prioritised in accordance with the principles outlined within the Council's agreed Highways Asset Management Plan and helps to deliver the LTP priorities.

Proposal

5. A number of in year changes to the 2016/17 programme (approved by Cabinet in March 2016) were required. The reasons for these changes were variations in cost estimates following detailed design, alterations to design as a result of extensive consultation, revised priorities and unforeseen circumstances during construction. The programme is managed in a flexible

manner and often includes an element of over-programming to ensure that additional schemes can be accelerated where new issues are encountered.

6. The LTP Integrated Transport capital settlement for the period 2015/16 to 2017/18 and indicative allocations for the period 2018/19 to 2020/21 was announced by the DfT in July 2014 to assist with multi-year planning. The funding allocated to the Tyne and Wear area for all financial years within the above period was set as £9,465,000 per annum:
 - This is a 46% reduction when compared to the allocation in 2014/15
 - Gateshead is set to receive £1.233 million of the Tyne and Wear allocation.
7. The LTP maintenance allocation for Gateshead for 2017/18 is £2,640,000, which is based on the Council achieving band 2 status through the DfT's new performance based approach.
8. The performance based approach considers the Council's approach towards asset management, resilience, customer input and consultation, benchmarking and efficiency and operational delivery, with the aim of ensuring that the highway infrastructure asset is managed effectively. Band 2 status means that the Council can demonstrate that outputs are being produced that support the implementation of key areas that will lead towards improvement.
9. The Council has also received an allocation of £772,000 for 2017/18 for transport from the National Productivity Investment Fund. This funding is available for local transport schemes to improve access to employment and housing to develop economic and job creation opportunities. This funding is being used to supplement the LTP funding and will be utilised in accordance with the proposed priorities as part of the overall planned investment in the highway network.
10. Appendix 1 provides further background to the above together with details of external funding that has been secured to use in conjunction with the LTP funding resulting in significant levels of investment in improving the highway infrastructure within the Borough.
11. Appendix 3 provides the projected outturn for the 2016/17 programme. The overall investment plan for 2017/18 is summarised at Appendix 4 with the proposed 2017/18 Integrated Transport (IT) programme attached at Appendix 5 and the 2017/18 maintenance programme at Appendix 6. The initial programme will be reviewed during the year and may be subject to change depending upon delivery progress and the outcome of consultation.

Recommendations

12. It is recommended that Cabinet:
 - (i) Notes the estimated final outturn relating to the transport capital programme for 2016/17 as set out in Appendix 3;

- (ii) Approves the proposed programme for 2017/18 as set out in appendices 4-6, noting that there may be a need to review scheme priorities during the course of the financial year in line with the available resources.
- (iii) Authorises the Service Director, Development, Transport and Public Protection to award the relevant works to the Service Director, Street Scene under the terms of the Highways, Drainage & Street Lighting Maintenance Contract.
- (iv) Authorise the Service Director, Development, Transport and Public Protection to make changes to the approved indicative programme through consultation with Cabinet Member for Environment and Transport as and when the need arises.

For the following reason:

To enable the design and implementation of transport schemes in support of the Tyne and Wear Local Transport Plan and the Council's policy objectives.

CONTACT: Anneliese Hutchinson ext 3881 Martin Kelly ext 3083

Policy Context

- 1 The proposals are in line with the vision for transport as outlined in the Gateshead Sustainable Community Strategy, Vision 2030. They also support the Core Strategy and Urban Core Plan, the aims and objectives of the Tyne and Wear Local Transport Plan 3 and the Gateshead Highway Asset Management Plan. Furthermore, the indicative programme supports funding received through the Cycle City Ambition fund as well as the proposed use of Council resources.

Background

Local Transport Plan funding

2. Separate Local Transport Plan (LTP) allocations are received from Government for maintenance and (via NECA) Integrated Transport (IT). Although not ring fenced, proposals are maintained in line with the allocations and are considered to be reflective of the pressures and priorities facing the network. While maintenance of the existing road network is the overall priority, it remains important to retain a level of funding for improvements to support future growth and other important Council priorities. In accordance with principles within the Highways Asset Management Plan, synergies between the two funding streams are maximised wherever possible in the planning and implementation of programmes.

2016/17 Programme

3. The LTP allocation together with other capital investment, including both Council resources, primarily borrowing, and externally secured funding, resulted in a transport capital programme of almost £9 million in 2016/17, representing significant investment in the Council's highway network. The sources of this funding are set out in Appendix 2.

Integrated Transport (IT) programme

4. The estimated outturn from the 2016/17 programme is shown in Appendix 3, with a total spend of some £3.5 million. The 2016/17 programme included £2.7m of investment in delivering schemes where commitments had been made in previous financial years as a result of re-scheduling of schemes and delays in implementation. A large proportion of this carryover was due to continued consultation relating to Phase 4 of the Durham Road Transport Corridor works and the A694 speed limit review. The NCN 725 cycleway improvements and South of Team Valley Cycleway schemes were also carried over into the 2016/17 financial year.
5. As with previous years there have been changes to scheme budgets as the design has progressed. These are a consequence of alterations made during the detailed design process in response to consultation, to reflect specific on site factors and due to the delivery of some schemes slipping into the 2017/18 financial year. The schemes that have seen the most significant value changes are detailed below:

Increases:

- Durham Road phase 4- increase of £250k from original budget
- Scheme Development - £160k
- Sunderland Road bus link - £70k
- Bus Infrastructure - £80k
- Public Rights of Way - £16K
- Road maintenance programme - £410k
- Town Centre Variable Message Signage - £46k (developer funded scheme added during the financial year)

Decreases:

- Ravensworth Primary School - decrease of £135k from original budget (to be progressed in 17/18)
- Hills Street - £50k (to be progressed in 17/18)
- Eighton Lodge Park and Ride - £77k (this scheme is currently in abeyance)
- Coatsworth Road - £88k (to be progressed in 17/18)
- A694 Speed limit review - £120k (to be progressed in 17/18)
- 20MPH zone/limit programme - £190k
- Bridge Maintenance Programme - £510k

6. Furthermore, it has become evident that planned works on some schemes will be carried forward into 2017/18 next financial year, reflecting revised delivery programmes. This includes:

- A694 Speed Review - design only in 16/17 due to continued consultation.
- Ravensworth Terrace (Highway works associated with new school).

7. Appendix 2 includes further information on those schemes that are expected to be carried over in to 2017/18. The forecast spend for 2016/17 will see the full external funding allocation spent within the year. Any schemes carried over will be funded as a commitment from the 2017/18 budget.

Maintenance programme

8. The delivery of the road maintenance programme in 2016/17 progressed well, albeit a number of changes to the approved programme were made throughout the year to account for alterations in cost estimates. The only road maintenance schemes being deferred into the new financial year are in locations where other highway or utilities works are planned and where it would not be prudent to carry out resurfacing in advance of those schemes taking place. Where this has been identified other schemes have been brought forward to ensure that the use of the available resources is maximised.

2017/18 programme

Integrated Transport (IT) programme

9. The financial year 2017/18 is the seventh year of LTP3, which is the third Local Transport Plan for Tyne and Wear and covers the period from 2011 to 2021. The main priorities of LTP3 are; to maintain and develop the transport networks; support the growth of the economy of Tyne and Wear; reduce transport carbon emissions; and contribute to making communities in Tyne and Wear healthier and safer.
10. Gateshead's integrated transport (IT) settlement in 2017/18 is expected to be £1.233 million. This figure is in line with the 2016/17 settlement, which was a significant cut when compared to previous years, with a 44% top slice (nationally) being included within the single local growth fund (SLGF). The SLGF, which is made up of several funding elements is not ring fenced and, for 2016/17, does not include any allocation for the delivery of small scale transport schemes.
11. Since the 2015/16 financial year, a further local consequence of this reallocation of funding nationally is that Gateshead and the other Tyne and Wear Authorities have received only limited public transport funding through Nexus. In 2014/15 Gateshead received £383,000 of such funding in addition to the standard LTP allocation and this dropped to £34,700 in 2016/17, and is expected to remain at this level for 2017/18.
12. The limited level of funding available through the IT budget has a serious impact on the Council's ability to undertake small scale transport schemes. These are often of particular importance in resolving day to day problems on the transport network, and supporting important economic, health, environment and community objectives at a local level. Some of the larger schemes supported previously through this budget (for example corridor improvements) will become increasingly difficult to fund altogether through this source, with the Council having to rely on securing funding through external funding bids, or through the increased use of Council resources which will have revenue implications.
13. The limited funding available through the LTP for transport improvements underlines the need to focus attention on alternative sources, including the SLGF. In the early part of 15/16 it was announced that the Council had been awarded £976,500 of Cycle City Ambition grant funding and £180,000 of Local Sustainable Transport funding following successful bids to supplement LTP allocations. This funding has been used to bring forward cycle improvements to the great North Cycle Route (NCN 725) and Wellington Street respectively, which were both completed in the 2016/17 financial year. As a result of this successful work, further external funding has been secured via the Cycle City Ambition Fund in 2017/18 for sustainable transport improvements to the Hills Street area within the Bridges Ward. It is proposed that match funding of this scheme is provided via developer contributions already secured within the Quays area.

14. The proposed programme as identified in appendix 5 has been developed based on the guidelines agreed at a Tyne and Wear level and to reflect local priorities identified in Vision 2030, and the Council Plan. It also supports the principles outlined within the Council's Highway Asset Management Plan (HAMP), particularly where integrated transport and maintenance requirements coincide. The programme includes a level of over programming (about 10%) to allow for a level of delay to some schemes during the process of design, consultation and delivery.

15. Priorities have been defined having regard to the three areas identified by the LTP. These are consistent with Vision 2030 and cover the following:

Economic Development and Regeneration – schemes aimed at improving strategic accessibility, making journey times more reliable, providing information to people and reducing public transport journey times.

Climate Change – schemes that will help achieve a less congested network that will generate less CO₂ and will encourage or enable mode shift to less polluting forms of transport. These schemes are directly associated with improving the environment and therefore will be crucial in moving towards a more sustainable Gateshead, and also in promoting active and healthy travel.

Safe and Sustainable Communities – Schemes that will improve accessibility at a community level and enhance health and wellbeing (including better road safety and air quality and increased active travel). Such schemes will empower all levels of communities and supports all of the Council priorities.

16. Although schemes have been allocated into a specific category in relation to the above, in practice many meet more than one of the objectives and some judgement has been taken in order to fit them into this categorisation.

17. The 2017/18 programme as presented in appendix 5 provides a breakdown of the schemes to be delivered throughout the course of the financial year. It also identifies where LTP funding will be used as local contributions (match funding) to secure external funding, and where the use of Council funding, particularly prudential borrowing, is proposed to supplement the externally funded elements of the programme in order to meet investment priorities. The proposed sources of funding for 2017/18 are shown in appendix 2.

18. The overall focus of the Integrated Transport programme remains the improvement of sustainable transport. This has important economic, social and environmental benefits through reductions in congestion, and pollution, and in encouraging healthy and active lifestyles. Important elements in this include:

- Urban Core Access - Improving access for sustainable transport to and through central Gateshead, including further work to the main Durham Road corridor. This will help provide the access needed to support the growth of central Tyneside as the economic hub of the North East;

- Traffic Management - Small scale schemes to tackle day to day problems, often of major importance to local residents and supporting the aim of creating safe and sustainable communities.
 - Traffic signal improvement - A major programme of maintenance and renewal of traffic lights, many of which are currently in poor condition and use out dated equipment;
 - 20mph Zones - Rolling out a programme of lower speed limits across primarily residential areas, reducing the threat of excess speed to more vulnerable road users and encouraging people to walk and cycle more;
 - Coatsworth Road - A scheme linked to the Townscape Heritage Initiative in that area, seeking to improve the appearance and traffic management arrangements along the street, which serves as both an important local shopping area and a route for buses and other traffic.
19. Given the fluid nature of the capital investment and to allow programme delivery to be maximised in 2017/18 and in future years funding has also been assigned to allow for future scheme development. This approach benefits the programme two fold in that it allows preliminary works including investigation, design and consultation to commence on schemes that have already been identified but were given a lower priority than those currently identified on the programme. Secondly it means a portfolio of larger schemes can be developed, leaving the Council better placed to bid if potential sources of external funding become available.

National Productivity Investment Fund

20. An additional £772,000 is expected to be made available to the Council for 2017/18 from the National Productivity Investment Fund. The objectives of the fund are aligned closely with those of the LTP and it is proposed to consider this funding within the Council's overall investment plans for the highway network. As a result proposals are contained within the overall programme outlined in Appendix 4, 5 and 6 and include:
- A contribution to the renewal of the Tyne and Wear urban Traffic Management and Control (UTMC) system which helps manage the road network and provide travel information across Tyne and Wear;
 - Supporting sustainable transport improvements to the main economic growth areas in central Gateshead;
 - maintenance schemes associated with key arterial routes;
 - support for transport related costs to support smaller developments across Gateshead.

Maintenance

21. The LTP maintenance funding allocation for Gateshead for 2017/18 is expected to be £2,640,000. This includes a 'needs' allocation of £2,435,000 and incentive funding of £205,000. A further £201,000 has also been allocated from the Government's Pothole Action Fund.
22. The LTP maintenance allocation is based on the Council achieving band 2 status (1 being the worst and 3 being the best) in the Department for Transport incentive funding process, and reflects both last year's status and

this year's submission. As of 2017/18 Highway Authorities not achieving a band 3 status will receive a year on year reduction in maintenance funding with Gateshead being granted 90% of its full allocation in 2017/18 reducing to 30% in 2020/21 (if remaining in band 2.) Steps are currently being taken to identify the resources necessary achieve band 3 status in future years, which would allow Gateshead to claim 100% of its potential incentive allocation. This would include further development of the Council's Highway Asset Management Plan (HAMP), and in particular predictive modelling of future asset condition, work to enhance information and planning for resilience and a focus on efficiency and collaboration in operational service delivery.

23. A report to Cabinet in November on the HAMP highlighted the significant shortfall in funding for highway maintenance in Gateshead. The report to Cabinet on the Council's capital programme provides further funding of nearly £4 million from its own resources to support the most immediate priorities, giving a total maintenance programme of over £8 million (excluding funding allocated to reduce street lighting energy use).
24. Appendix 6 includes the proposed maintenance programme for 2017/18. This seeks to use available resources to greatest effect in line with the approach of the updated HAMP. In particular priority has been given to urgent repairs relating to safety barriers and landslips (the urgent need for repairs to traffic signals equipment is covered as part of the IT programme summarised in Appendix 5). An allocation is also made to cover the required local contribution towards a bid made to the Government's Highway Maintenance Challenge Fund for major repairs at Heworth roundabout, with any remaining funding put towards programmed maintenance and renewal. As for the IT schemes, resources from the National Productivity Investment Fund have also been incorporated within the overall investment plans. Given that the planning and delivery of maintenance schemes is usually more predictable, and that the identification of substitute schemes simpler where problems do arise, only minimal over-programming has been allowed for in the proposed programme.
25. Road condition survey information, bridge inspection reports and the lists of outstanding schemes have been used to prepare a detailed programme of works in line with the allocations set out in Appendix 2, and this is set out in Appendix 6. The latest local carriageway condition survey data indicates that approximately 9% of Gateshead's roads require structural repairs (resurfacing). The proposals seek to ensure that roads and footways are maintained in compliance with the statutory duty (Highways Act 1980 Section 41) to maintain adopted highway.
26. In line with the requirements of the HAMP a longer term approach to maintenance investment is under development. The approval in February of indicative 5 year allocations for maintenance as part of the Council's overall capital programme will support this, enabling outline programmes for 3-5 years to be developed.

Highway Maintenance Challenge Fund

27. The Government announced a further round of bidding for its Highway Maintenance Challenge Fund for 2017/18 earlier this year. This provides

funding to support schemes which are over and above normal maintenance activity. A scheme to carry out extensive renewal and necessary strengthening of Heworth roundabout has been submitted to this, and a decision is expected in May. Internal Council resources have been included in the Council's capital programme to provide the necessary local contribution that will be required as part of any bid.

28. A further round of bidding, for 2018/19 schemes, is expected to be announced later this year. A joint bid with Newcastle for major repairs needed to the Tyne Bridge has been identified as a possible candidate scheme for this and the Council will continue to explore further opportunities to submit additional bids to address identified priorities.

Consultation

29. Extensive consultation across Tyne and Wear was carried out during the preparation of the Local Transport Plan. This included household questionnaires and discussions with key interest groups as well as focus groups with Gateshead residents to discuss transport problems and solutions. The outcome from the consultation helped shape the LTP strategy and subsequent spending programmes. The Cabinet Members for Environment and Transport have been consulted on the proposed programme. Individual schemes within the programme have and will continue to be subject to local and stakeholder consultation as appropriate.
30. The identification of maintenance schemes includes the assessment of feedback from members of the public. In many cases small scale repairs are carried out but, where appropriate, suggestions are fed into programmes of planned renewal.

Alternative Options

31. The allocations outlined as part of the 2017/18 programme are those considered to be deliverable and which best meet the objectives of the Local Transport Plan while supporting more local priorities.

Implications of Recommended Options

32. Resources:

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that the proposed capital investment can be accommodated from within the Council's approved Capital Programme.

Within the provisional 2017/18 LTP Programme there is a level of over programming which will be monitored throughout the year to ensure schemes are delivered within available resources.

- b) **Human Resources Implications** – There are no human resources implications. However recruitment is underway to appoint an additional member of staff to assist the Council achieve Band 3 status as part of the incentive based approach to maintenance funding.

- c) **Property Implications** – No property implications have been identified.
33. **Risk Management Implications** – The main risk associated with the programme is that any significant under spend may lead to a loss of funding. Failure to deliver schemes that have external funding linked to them is likely to mean the loss of that external funding source and may also jeopardise the potential to secure additional funding in future years. Development of programmes takes into account risks relating to safety, delay and longer term issues such as growth, pollution and health in determining priorities.
34. **Equality and Diversity Implications** – Implementation of the integrated transport capital programme will assist in reducing social exclusion by improving access for the young, elderly, unemployed/low waged and people with disabilities. However the reduction in funding when compared to that received as part of LTP2 and earlier years of LTP3 continues to have an adverse impact on the extent of the delivery programme.
35. **Crime and Disorder Implications** – Proposals within the integrated transport programme will assist in improving safety and security for the travelling public. However the reduction in funding when compared to that received as part of LTP2 and earlier years of LTP3 continues to have an adverse impact on the extent of the delivery programme.
36. **Health Implications** – The integrated transport capital programme is vital in reducing levels of casualties in road accidents and also in achieving an ‘Active and Healthy Gateshead’. The latter aims to make sustainable travel, including walking and cycling more attractive to the residents of Gateshead. Specifically, the aims are to provide the infrastructure and education to encourage healthier living through: improving streets and rights of way; removing unnecessary traffic; reducing traffic; providing training through the safer routes to schools programme and travel planning. Increases in sustainable and active travel will also have positive air quality outcomes. However the reduction in funding when compared to that received as part of LTP2 and earlier years of LTP3 continues to have an adverse impact on the extent of the delivery programme.
37. **Sustainability Implications** – The integrated transport capital programme is an important element in providing the basis for a sustainable transport system capable of supporting the Borough’s environmental, social and economic objectives sustainably. In particular it seeks to reduce car dependence, thereby contributing to the reduction of carbon emissions. However the reduction in funding when compared to that received as part of LTP2 and earlier years of LTP3 continues to have an adverse impact on the extent of the delivery programme.
38. **Human Rights Implications** – The construction of transport and traffic facilities can have an effect on the amenities of some residents. Consultation on specific proposals will be held with residents, ward members and relevant stakeholders.
39. **Area/Ward Implications** – All wards will be affected.

Background Information

40. Further background information is contained in:
 - Report to Cabinet April 2016 on the LTP programme
 - Report to Cabinet April 2016 identifying the Highways Maintenance Capital Programme for 2016/17.
 - Report to Cabinet on the Highways Asset Management Plan

Appendix 2- 2016/17 and 2017/18 budget allocations

2016/17 Capital Investment: Highways Infrastructure	Total (£'000)
Carry forward from previous year:	
Council Resources (Borrowing)	962
Cycle City Ambition Fund (CCAF)	668
In-year Funding Allocations:	
LTP: Maintenance	2,664
LTP: Integrated Transport	1,301
DFT Pothole Funding	143
S106 Developer Contributions	114
Insurance Claim	40
Rechargeable Works	30
Council Resources (Borrowing)	
Street Lighting Column Replacement	2,000
Strategic Transport / Maintenance	750
Integrated Transport Schemes	143
Traffic Signal Renewal	172
Total Investment in Highways Infrastructure	8,987

2017/18 Capital Investment: Highways Infrastructure	Total (£'000)
In-year Funding Allocations:	
LTP: Maintenance	2,640
LTP: Integrated Transport	1,233
Cycle City Ambition Fund (CCAF)	630
DFT Pothole Funding	201
DEFRA Air Quality	60
National Productivity Investment Fund	772
S106 Developer Contributions	281
Council Resources (Borrowing)	
Street Lighting Column Replacement	1,750
Strategic Transport / Maintenance	750
Heworth Roundabout Upgrade	1,325
Felling VRS	1,000
Traffic Signal Renewal	450
Total Investment in Highways Infrastructure	11,092

Appendix 3: 2016/17 Estimated Outturn

Project Name	2016/17 Budget (£'000)	2016/17 Projected Outturn (£'000)
Integrated Transport		
Economic Development and Regeneration		
Durham Rd Ph4	50	298.3
South Team Valley Cycle improvements	500	498.5
Eighton Lodge Park and Ride	90	13
Ravensworth Terrace Primary School Scheme Development	150	14.7
Hills Street Cycle Improvements	100	258.9
Coatsworth Road	70	20.9
Team Valley Pinch Point	100	11.6
Sunderland Road link	96	99.1
Economic Development & Regeneration Total	1,206.0	1,334.0
Climate Change		
Great North Cycleway	881.3	815.8
Wellington Street Cycle Improvements	0	5.8
Baltic Cycle Scheme	11.5	40.5
Bus infrastructure	10	92.8
Sustainable Transport Initiative	30	21.6
Climate Change Total	932.8	976.5
Safe and Sustainable Communities		
A694 Speed Review	175	55.2
Lingey Lane/Leam Lane	0	1.5
<i>Guard Rail Assessment, Felling Bypass</i>	20	13.3
<i>Guard Rail Assessment, Chainbridge Road</i>	10	0
Traffic Signal Improvements	430	462.7
Public rights of way	80	95.6
20MPH Schemes/Zones	349	158.0
West Gateshead Links to School	0	8.8
Traffic Management (ward issues)	200	301
Askew Road	0	9.7
Centrelink Improvements	0	8.8
VMS (Town Centre)	229	45.6
A695 Corridor Improvements (Story Homes)	0	8.3
Safe and Sustainable Communities Total	1,493.22	1,168.5
Integrated Transport Total	3,632	3,478.9

Project Name	2016/17 Budget (£'000)	2016/17 Projected Outturn (£'000)
Maintenance		
Principal Roads		
A695 Chainbridge Road / Derwenthaugh Road	43	33.2
A167 Tyne Bridge Approach Southbound, Gateshead	77	53.7
A184 Felling Bypass, Heworth	90	112.1
A692 Sunnyside	0	4.6
Principal Roads Total	210.0	203.6
Other Roads		
C326 Askew Road, Teams	31.6	0
B1296 Old Durham Road, Deckham	44.9	52.2
C319 Coldwell Lane, Felling	47.5	47.3
B6317 Main Street, Crawcrook	47	78.4
B6316 Whaggs Lane, Whickham	43	115
B6316 Sunnyside Road, Sunnyside	72	171.7
B6317 Whickham Highway, Dunston Hill	22	28.2
B601 Lobley Hill Road, Bensham	48	45.2
C324 Kingsway South, Team Valley	99	90.3
C314 Chowdene Bank, Chowdene & TVTE	35	60.3
Coatsworth Road, Bensham	63	0
B1426 Sunderland Road, Gateshead	51	72.6
B1296 Old Durham Road, Sheriff Hill	57	0
C319 Coldwell Lane, Felling	53	66.5
C330 Vigo Lane, Birtley	49	105
B1288 Portobello Road, Birtley	30	46.3
Grange Road, Heworth	55	93
Structural Patching	150	268
Highway Drainage Works	50	0
Minor Works	100	208.7
Non Residential Other Roads Total	1,148.1	1,548.7
Rural Roads - Surface Dressing		
C302 Lead Road, Greenside	70	97.3
Greenhead Road, Chopwell	50	0
Rural Roads Surface Dressing Total	120.0	97.3
Residential Roads		
Coleridge Avenue, Low Fell	37.1	36.2
Windermere, Vigo	27.9	31.7
Woodburn, Whitehills	27.4	0
School Lane, High Spenn	14	16.2
Orchard Road, Rowlands Gill	22	24.4
Park View, Winlaton	16	13.6
Cowen Road, Blaydon	24	41.8
Brewery Bank, Swalwell	11	15.9

Project Name	2016/17 Budget (£'000)	2016/17 Projected Outturn (£'000)
Buttermere Avenue, Whickham	33	35.9
Chepstow Gardens, Bensham	18	31.4
East Park Road, Saltwell	34	63.5
Colton Gardens, Beacon Lough	24	23.4
Hylton Street, Gateshead	18	0.2
Edward Road, Birtley	37	59.4
Davidson Street, Felling	40	61.8
Windermere, Vigo	52	37.5
The Paddock, Leam Lane	31	3.1
Plantation Grove, Pelaw	19	24.5
Ely Street, Gateshead	0	24.9
Lobley Gardens, Lobley Hill	0	21.2
Residential Roads Maintenance Total	485.5	566.6
Back Lanes		
Whittonstall Terrace / Ravenside Terrace, Chopwell	12	10.7
Hood Street, Swalwell	6	17.7
Parsons Gardens / Tyndale Gardens / Barry Street, Dunston	15	6.7
Prince Consort Road / Camborne Grove, Gateshead	18	24.6
Durham Road, Low Fell	9	9.9
Back Lanes Maintenance Total	60.0	69.6
Technical Costs	92.0	67.7
Road Maintenance Total	2,115.60	2,553.50
Bridge Maintenance		
Bridge Maintenance Principal Roads		
Major Concrete Repairs	355	54.6
Tyne Bridge; Principal Inspection	30	49.5
Blaydon Viaduct	0	2.9
Redheugh Bridge Concrete Repairs	0	12.7
Bridge Maintenance Principal Roads Total	385.0	119.7
Bridge Maintenance Other Roads		
NR Overbridges Principal Inspections	110	14.3
Road Bridges; Principal Inspections	60	2.1
Swing Bridge; Major Steelwork Repairs	32	6.6
Bridge Maintenance Other Roads Total	202.0	23.0
Geotechnical Assets	100	30.5
Life Cycle Plan	0	4.2
Geotechnical Assets Total	100.0	34.7
Bridge Maintenance Total	687.0	177.4
Street Lighting	143	1
Street Lighting Total	143.0	1.0
Development and Monitoring	10.0	135.1

Project Name	2016/17 Budget (£'000)	2016/17 Projected Outturn (£'000)
Regeneration Areas	0	118.3
Other Council Funded Maintenance Programmes		
Concrete Street Lighting Column Replacement	2,000	1,985
Pedestrian Guardrail Renewal	100	100
Vehicle Restraint Systems	100	122
Highway Carriageway Maintenance Schemes	100	47
Street Lighting Infrastructure	100	110
Footpath Refurbishment	100	100
Other Council Funded Maintenance Total	2,500	2,464
Maintenance Totals	5,455.6	5,449.3
Total Highways Infrastructure Investment	9,087.6	8,928.20
Sources of Funding (Appendix 2):		
External Grant/Contributions	(4,960.0)	(4,960.0)
Council Resources	(4,027.0)	(4,027.0)
Total Projected Highways Funding	(8,987.0)	(8,987.0)
Total (Under)/Over programming	100.60	(58.8)

Appendix 4: 2017/18 Proposed Highway Infrastructure Investment

£000	LTP	Match funding	Total	Match details	Comments
Integrated Transport					
Safe & Sustainable Communities	1,058	1,180	2,238	Cycle City, Council	See Appendix 5 for scheme detail
Climate Change Total	220	90	310	DEFRA, NPIF	See Appendix 5 for scheme detail
Economic Development & Regeneration	305	321	576	NPIF, Developers	See Appendix 5 for scheme detail
Total Integrated Transport	1,583	1,591	3,124		
Maintenance					
Planned road maintenance:					
<i>Classified roads</i>	283	292	575	NPIF	
<i>Unclassified roads</i>	326	0	326		
<i>Back lanes</i>	70	0	70		
Planned road maintenance (total)	679	292	971	NPIF	See Appendix 6 for scheme detail
Bridges/structures - planned maintenance	252	388	640	Council	See Appendix 6 for scheme detail
Heworth roundabout	1,325	1,325	2,650	Council	Challenge Fund bid submitted to fund additional work
A184 repairs	265	310	575	NPIF	
Felling by-pass safety fence	250	1,000	1,250	Council	
Geotechnics	72	0	72		
Street lighting column replacement	0	1,750	1,750	Council	
Planned minor works	0	362	362	Council	
Monitoring/development	85	0	85		
Total Highways Maintenance	2,928	5,427	8,355		
Total Highways Infrastructure Investment	4,511	7,018	11,479		
External Grant/Contributions			5,817		See Appendix 2 for funding detail
Council Resources			5,275		See Appendix 2 for funding detail
Total Highways Infrastructure Funding			11,092		
(Under)/Over Programming			387		

Appendix 5: 2017/18 Integrated Transport capital programme

	LTP (£'000)	Match funding (£'000)	Est scheme value (£'000)	Match details	Comment
Safe and Sustainable Communities					
Public rights of way	80	0	80		
Bus Lane Enforcement	45	0	45		
Blaydon (Swalwell Road) zebra crossing improvements	13	0	13		
Hill Street	30	680	710	Cycle City funding (630) Developer (50)	£30,000 LTP contribution towards Oakwellgate left turn ban
Queen Elizabeth Avenue zebra crossing	25	0	25		Scheme development completed 2016/17
20MPH Schemes/Zones					
<i>Kells Lane</i>	50	0	50		Additional works required
<i>A694, Rowlands Gill</i>	130	0	130		
<i>Furrowfield</i>	5	0	5		Scheme development only in 2017/18
<i>Mount Pleasant</i>	50	0	50		
<i>Watermill</i>	5	0	5		Scheme development only in 2017/18
<i>Felling</i>	40	20	60	Developer	
<i>Winlaton</i>	130	0	130		
<i>Dunston</i>	5	0	5		Scheme development only in 2017/18
<i>Shibdon (incl High View)</i>	0	30	30	Developer	
Safe and sustainable scheme investigation/development	150	0	150		Potential schemes: Centrelink Sunniside speed management Woodside Lane Fellside Road Funding allows for element of implementation
Traffic Management (ward issues)	250	0	250		

	LTP (£'000)	Match funding (£'000)	Est scheme value (£'000)	Match details	Comment
Traffic Signal Improvements	50	450	500	Council	
Safe & Sustainable Communities Total	1,058	1,180	2,238		
Climate Change					
Durham Road Phase 5/6/7	40	0	40		Design and consultation in 2017/18.
NCN 725 - phase 2	130	90	220	DEFRA (60) NPIF (30)	
South of Team Valley cycleway ph 2	10	0	10		Design and development in 2017/18
Arthur Street capacity improvements	10	0	10		Design and development in 2017/18
Sustainable Transport Initiative	30	0	30		
Climate Change Total	220	90	310		
Economic Development & Regeneration					
Future scheme development	100	0	100		
Urban Core development support	0	25	25	NPIF	
Support for small scale development	0	25	25	NPIF	
Ravensworth Terrace	60	0	60		
VMS - Town Centre	0	181	181	Developer	£48,000 spend in 16/17. Total funding £229,000
Coatsworth Road	200	0	200		
Tyne and Wear UTMC	0	90	90		Renewal of existing Tyne and Wear wide system
Scheme audits	5	0	5		
Development and Monitoring	40	0	40		
Economic Development & Regeneration Total	305	321	576		
Integrated Transport total	1,583	1,591	3,124		

Appendix 6: 2017/18 highway maintenance (planned maintenance) programme

Table 1 - Classified & Bus Routes (non-residential roads)

Scheme No.	Location	Ward	Area	Description of Works	Cost £k
Principal Roads					
2017/SMP/01	A692 Lobley Hill Road , Lobley Hill	Lobley Hill & Bensham	Central	Reconstruct / resurface carriageway & footway	31
2017/SMP/02	A167 Durham Road , Birtley	Birtley	South	Reconstruct / resurface carriageway	23
2017/SMP/03	A1231 Portobello Road , Birtley	Lamesley	South	Reconstruct / resurface carriageway	32
Technical Costs					5
Subtotal 1					91
Other Roads					
2017/SM/01	C301 Greenside Road , Crawcrook	Crawcrook & Greenside	West	Reconstruct / resurface carriageway	48
2017/SM/02	B6317 Main Road , Ryton	Ryton, Crookhill & Stella	West	Reconstruct / resurface carriageway	35
2017/SM/03	B6317 Shibdon Road , Blaydon	Blaydon	West	Resurface carriageway	14
2017/SM/04	C324 Kingsway South , Team Valley	Lamesley	South	Reconstruct / resurface carriageway	70
2017/SM/05	Coatsworth Road , Bensham	Saltwell, Bridges, Lobley Hill & Bensham	Central	Resurface carriageway	61

2017/SM/06	High Street, Gateshead	Bridges	Central	Reconstruct / resurface carriageway	49
2017/SM/07	B1296 Old Durham Road, Deckham	High Fell	South	Reconstruct / resurface carriageway	62
2017/SM/08	Structural Patching	-	-	Carriageway repairs near resurfacing schemes	50
2017/SM/09	Highway Drainage Works	-	-	Drainage repairs near resurfacing schemes	50
2017/SM/10	Minor Works (various – poor weather failures)	-	-	Resurface carriageway	30
Technical Costs					15
Subtotal 2					484
Reserve Schemes (to be included if the main programme cannot be completed)					
2017/SM/R01	C313 Easedale Gardens, Wrekenton	High Fell, Lamesley	South	Reconstruct / resurface carriageway	-
2017/SM/R02	Nest Road, Felling	Felling	East	Reconstruct / resurface carriageway	-
2017/SM/R03	C328 Watermill Lane, Heworth	Felling, Pelaw & Heworth	East	Reconstruct / resurface carriageway	-
Subtotal 2					484
Subtotal 1					91
Total					575

Table 2 - Unclassified (residential roads & non-bus routes)

Scheme No.	Location	Ward	Area	Description of Works	Cost £k
2017/MP/01	Moorland View , Chopwell	Chopwell & Rowlands Gill	West	Resurface carriageway	7
2017/MP/02	Railway Access Road , Clara Vale	Crawcrook & Greenside	West	Resurface carriageway	13
2017/MP/03	River Lane , Ryton	Ryton, Crookhill & Stella	West	Resurface carriageway	19
2017/MP/04	Whitmore Road , Blaydon	Blaydon	West	Resurface carriageway	13
2017/MP/05	Napier Road , Swalwell	Whickham North	Inner West	Resurface carriageway	24
2017/MP/06	Halifax Road , Dunston	Dunston & Teams	Inner West	Resurface carriageway	19
2017/MP/07	St Helen's Crescent , Low Fell	Low Fell	South	Footway refurbishment	42
2017/MP/08	Coulthards Lane , Gateshead	Bridges	Central	Resurface carriageway	14
2017/MP/09	Woodford , Allerdene	Chowdene, Lamesley	South	Reconstruct / resurface carriageway	30
2017/MP/10	Causeway , Sheriff Hill	High Fell	South	Resurface carriageway	7
2017/MP/11	Shadon Way , Portobello	Birtley	South	Reconstruct / resurface carriageway	36
2017/MP/12	Dundas Way , Felling	Felling	East	Reconstruct / resurface carriageway	15

Table 2 - Unclassified (residential roads & non-bus routes) continued

Scheme No.	Location	Ward	Area	Description of Works	Cost £k
2017/MP/13	Coniston , Pelaw	Pelaw & Heworth	East	Resurface carriageway	14
2017/MP/14	The Paddock , Leam Lane	Windy Nook & Whitehills	East	Resurface carriageway	33
2017/MP/15	Minor Works (various – poor weather failures)	-	-	Resurface carriageway	30
Reserve Schemes (to be included if the main programme cannot be completed)					
2017/MP/R01	St Bedes Drive , Gateshead	Bridges	Central	Resurface carriageway	-
2017/MP/R02	Southend Road , Beacon Lough	Low Fell, High Fell	South	Reconstruct / resurface carriageway	-
Technical Costs					10
Total					326

Table 3 - Back Lanes

Scheme No.	Location	Ward	Area	Description of Works	Cost £k
2017/BL/01	Hollings Terrace / Ravenside Terrace , Chopwell	Chopwell & Rowlands Gill	West	Resurface carriageway	5
2017/BL/02	Parsons Gardens / Tyndal Gardens / Barry Street , Dunston	Dunston & Teams	Inner West	Resurface carriageway	16
2017/BL/03	Dryden Road / Devon Gardens , Shipcote	Deckham	Central	Resurface carriageway	14
2017/BL/04	Whitehall Road / Hartington Street , Gateshead	Bridges	Central	Resurface carriageway	13
2017/BL/05	Dorset Avenue / York Road , Barley Mow	Birtley	South	Resurface carriageway	17
Reserve Scheme (to be included if the main programme cannot be completed)					
2017/BL/R01	Beaconsfield Road / Clement Street , Low Fell	Low Fell	South	Resurface carriageway	-
Technical Costs					5
Total					70

Table 4 – Bridges/structures

Scheme No.	Location	Ward	Area	Description of Works	Cost £k
Principal Roads					
TS0329	A695, A167	Blaydon, Chowdene	West, South	Major concrete repairs	370
Other Roads					
TS0278	Various Rail Overbridges	Various	Various	Principal bridge inspections	120
TS0279	Various Road Underbridges	Various	Various	Principal bridge inspections	70
-	C322 Swing Bridge	Bridges	Central	Major steelwork repairs	40
TS0329	Various Road Bridges	Various	Various	Major concrete repairs	40
Total					640

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TITLE OF REPORT: Tenders for the Supply of Goods and Services

REPORT OF: Mike Barker, Strategic Director Corporate Services and Governance

Purpose of the Report

1. The purpose of this report is to ask Cabinet to consider the tenders received for;
 - i. Fully Managed Catering Service for Washingwell School
 - ii. Provision of Tyres and Associated Services
2. The background to these contracts is contained in the attached appendices.

Proposal

3. Cabinet is asked to agree and note the recommendations below.

Recommendations

4. It is recommended that
 - (i) The tender from Orian Solutions Ltd be accepted for the Contract for a Fully Managed Catering Service for Washingwell School for a period of 36 months commencing 24 July 2017 with the option to extend for 2 x 12 month periods.
 - (ii) The tender from Goodyear Dunlop Tyres UK Limited be accepted for the Contract for the Provision of Tyres and Associated Services for a period of 36 months commencing 8 May 2017 with the option to extend for a further 1 x 12 months.

For the following reason:

A comprehensive evaluation of the tenders received has been undertaken. The recommended tender is the most economically advantageous tender submitted.

CONTACT: Andrea Tickner Extension: 5995

Policy Context

1. The contract for the Fully Managed Catering Service for Washingwell School has been organised in accordance with the Council's Consolidated Procurement Policy.

Background

2. The contract is being arranged on behalf of Washingwell Community Primary School.
3. The contract is for the provision of a school meal catering service that can deliver a good selection of healthy, nutritious food which is cost effective and gives value for money to students and school staff.
4. The contract is for a 36 months commencing 24th July 2017 with the option to extend for 2 x 12 month periods. The estimated annual value of the contract is £71,000.
5. Tenders were received from the following companies:

Orian Solutions Ltd, Cumbria
CWC Malings Ltd, North Yorkshire

6. A comprehensive evaluation of the tenders has been undertaken against the following criteria:
 - Mandatory Grounds for Exclusion criteria relating to:
 - Compliance with Modern Slavery Act 2015,
 - Appropriate Insurance cover,
 - Compliance with Equality Legislation,
 - Approach to Environmental Management,
 - Compliance with Health and Safety,
 - Children's Safeguarding
 - Contract approach criteria including:
 - Service Delivery,
 - HR and Communications,
 - Marketing and Innovation,
 - Menu and Menu Development,
 - Food Quality and Sustainability,
 - Customer Service, and
 - Online Ordering System.
 - Value for money including the cost per meal per child per day.

Consultation

7. There has been no external consultation.

Alternative Options

8. The anticipated value of this contract exceeded the threshold requiring competitive tenders to be invited in accordance with the EU Public Procurement Directives; therefore there are no alternative options.

Implications of Recommended Option

9. Resources:

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that provision exists within the Council’s budget to meet the cost of this contract.
- a) **Human Resources Implications** – There are potential TUPE implications for the members of staff currently engaged in the provision of this service. The service, Human Resources and all tenderers are aware of these implications. All TUPE information has been provided to the tenderers in the preparation of their bids. All relevant employee information will be supplied to the successful company prior to service commencement to facilitate the transfer of employees.
- b) **Property Implications** - nil

10. Risk Management Implication - nil

11. **Equality and Diversity Implications** - The recommended tenderer meets the legal obligations of the Equality Act 2010.

12. Crime and Disorder Implications – nil

13. Health Implications - nil

14. Sustainability Implications - nil

15. Human Rights Implications - nil

16. Area and Ward Implications - nil

Background Information

17. The documents that have been relied on in the preparation of the report include:

The received tenders.

Policy Context

1. The contract for the Provision of Tyres and Associated Services has been organised in accordance with the Council's Consolidated Procurement Policy.

Background

2. The contract is being arranged on behalf of Communities and Environment, Fleet Management.
3. The contract is for a 36 month period commencing 8 May 2017 with the option to extend for a further 1 x 12 months. The estimated annual value of the contract is £120,000.
4. Tenders were received from the following companies:

GB Bandag Ltd, Durham
Goodyear Dunlop Tyres Ltd, Birmingham
McConechy's Tyre Services Ltd, South Ayrshire
5. A comprehensive evaluation of the tenders has been undertaken against the following criteria:

- Mandatory Grounds for Exclusion criteria including:
 - Compliance with Modern Slavery Act 2015,
 - Financial Appraisal,
 - Appropriate Insurance cover,
 - Compliance with Equality Legislation,
 - Approach to Environmental Management,
 - Compliance with Health and Safety
- Proposed Methodology for Delivery of the Contract including:
 - Ability to adhere to the response and completion times,
 - Details of the mobile service available under this contract,
 - On-site tyre fitters,
 - Depot location and available services,
 - Fleet checks / audits,
 - Sustainability and social value,
 - Tyre disposal,
 - Out of borough services,
 - Qualifications of tyre fitters,
 - Subcontracting arrangements.

Consultation

6. There has been no external consultation

Alternative Options

7. The anticipated value of this contract exceeded the threshold requiring competitive tenders to be invited in accordance with the EU Public Procurement Directives; therefore there are no alternative options.

Implications of Recommended Option

8. **Resources:**
 - b) **Financial Implications** – The Strategic Director, Corporate Resources confirms that provision exists within the Council's budget to meet the cost of this contract.
 - c) **Human Resources Implications** – nil
 - d) **Property Implications** - nil
9. **Risk Management Implication** - nil
10. **Equality and Diversity Implications** - The recommended tenderer meets the legal obligations of the Equality Act 2010.
11. **Crime and Disorder Implications** – nil
12. **Health Implications** - nil
13. **Sustainability Implications** - nil
14. **Human Rights Implications** - nil
15. **Area and Ward Implications** - nil

Background Information

16. The documents that have been relied on in the preparation of the report include:
The received tenders.

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TITLE OF REPORT: Interim Senior Management Arrangements – Care, Wellbeing and Learning

REPORT OF: Mike Barker, Strategic Director, Corporate Services and Governance

Purpose of the Report

1. To seek Cabinet agreement to recommend to Council interim arrangements to cover the role of Strategic Director, Care, Wellbeing & Learning (including the statutory roles of director of children’s services and director of adult social services) pending a permanent appointment to this role.

Background

2. The Council continues to face a number of major challenges in managing significant budgetary pressures, whilst meeting increasing demand as a consequence of demographic changes and a rapidly changing policy context.
3. It is the responsibility of the Chief Executive to ensure the Council is able to meet these challenges, and deliver the Council’s priorities and objectives, by having the right skills and capacity in the right places across the organisation.
4. Under the provisions of the Children Act 2004 and Local Authority Social Services Act 1970 local authorities must appoint a Director of Children’s Services (DCS) and a Director of Adult Social Services (DASS), respectively.
5. In Gateshead Council both of these roles are carried out by the Strategic Director, Care, Wellbeing & Learning. This follows the merger of the majority of services within the Learning & Children and Community Based Services service groups into a single group in 2014.
6. Since the retirement of the Strategic Director, Care, Wellbeing and Learning in January 2016, the Strategic Director role has been undertaken on an interim basis by two different post holders. Following the departure of the most recent interim post holder the Council must now make an appointment to the Strategic Director role in order to fulfil its statutory duties.
7. The Council is currently engaged in a competitive recruitment exercise to appoint a permanent successor to the role of Strategic Director, Care, Wellbeing and Learning. It is anticipated that a recommendation will be made by Special Appointments Committee on a suitable candidate to undertake the role, in May 2017.

8. Whilst the recruitment is underway, the Council must ensure that it fulfils its statutory obligation to have a director of children's services and director of adult social services.

Proposal

9. Pending a permanent appointment being made, it has been proposed by the Chief Executive that she will fulfil the duties of the Strategic Director, including the statutory roles of the Council's director of children's services and director of adult social services.
10. The exercising of duties by the Chief Executive is considered to be the best option available to the Council at this time. In arriving at this recommendation it is hoped that whilst it is short-term in nature, this decision will provide stability and continuity within the Care, Wellbeing and Learning group, rather than introduce further interim or temporary capacity into the group.
11. The Chief Executive in taking on these duties will work closely, day-to-day, with the group's management team to ensure that there is continuity across the delivery of services. In exercising these duties, she will also work closely with the Leader of the Council and relevant portfolio holders.
12. Whilst the Chief Executive does not have a career background in social care, she has previously temporarily fulfilled the statutory roles of DCS and DASS in her role as Chief Executive at Knowsley Metropolitan Borough Council.

Recommendations

13. That Cabinet recommends to Council that the Chief Executive be appointed on a short-term basis to the post of Strategic Director, Care, Wellbeing & Learning, pending a permanent appointment being made.

For the following reason:

To ensure that the Council is fulfilling its statutory obligations, and is exercising the co-ordination of Council functions, the organisation of its staff, and to enable Council services to be delivered in the most effective way.

Policy Context

1. The proposals will assist in the delivery of Vision 2030 and in the implementation of the Council's Corporate Priorities as set out in the Council Plan 2015-2020 and its policy framework through the efficient use of resources.

Background

2. Under the provisions of the Children Act 2004 and Local Authority Social Services Act 1970 local authorities must appoint a Director of Children's Services and a Director of Adult Social Services, respectively. In Gateshead Council, both of these roles have been carried by the Strategic Director, Care, Wellbeing & Learning since the post was established in October 2014. With this position current vacant following retirement of the substantive post holder in January 2016 and the interim post holders' departure, the Council must make a new appointment to this post. While arrangements are underway to recruit on a permanent basis, this is unlikely to be finalised until late spring at the earliest; therefore it is necessary for the Council to make an interim appointment.
3. Whilst the Chief Executive does not have a career background in social care, she has experience from previously temporarily fulfilling the statutory roles of DCS and DASS in her role as Chief Executive of Knowsley Metropolitan Borough Council.

Consultation

4. Cabinet members have been consulted on the proposals and are supportive of the recommendations.

Alternative Options

5. The Council must make an appointment to the statutory roles of DCS and DASS: there are no suitable alternative options available to the Council. In view of the ongoing appointments process it is not considered appropriate to have an interim internal appointment or a further temporary recruitment.

Implications of Recommended Option

6. Resources

- a) **Financial Implications** –The Strategic Director, Corporate Resources confirms temporary appointment of the Chief Executive will achieve savings as there will be no further expenditure on interim agency cover.
- b) **Human Resources Implications** - There are no specific human resources implications arising from this proposal and report.
- c) **Property Implications** - There are no property implications arising directly from this report.

7. **Risk Management Implications** – There are no risk management implications arising directly from this report.
8. **Equality and Diversity Implications** - There are no equality and diversity implications arising directly from this report.
9. **Crime and Disorder Implications** – There are no crime and disorder implications arising directly from this report.
10. **Health Implications** – There are no health implications arising directly from this report.
11. **Sustainability Implications** – There are no sustainability implications arising directly from this report.
12. **Human Rights Implications** - There are no human rights implications arising from this report.
13. **Area and Ward Implications** - There are no area and ward implications arising from this report.

TITLE OF REPORT: 2017 - 2018 Statutory Intervention Plan for the Food Control and Health & Safety services

REPORT OF: Paul Dowling, Strategic Director, Communities and Environment

Purpose of the Report

1. The report asks Cabinet to consider and recommend the Council to approve the Intervention Plan for the Food Control and Health & Safety services for 2017 - 2018.

Background

2. It is a statutory requirement that the Intervention Plans for these services are considered and approved at an appropriate level on an annual basis.
3. The information required in the Health and Safety Service Intervention Plan is directed by the 'Section 18 Standard on Enforcement' of the Health and Safety at Work etc Act 1974.
4. The information required in the Food Control Service Intervention Plan is directed by the requirements of the Food Standards Agency (FSA) Framework Agreement on Feed and Food Controls by Local Authorities.

Proposal

5. It is proposed that the Intervention Plan for the period 1 April 2017 to 31 March 2018 be agreed. A summary of the Plan is attached at Appendix 2.

Recommendations

6. Cabinet is asked to recommend the Council to agree the Intervention Plan for 2017 – 2018.

For the following reason:

To consider that effective and appropriate enforcement strategies and resources are allocated to deliver the mandatory duties placed on the Council as the enforcing authority for the regulation of businesses.

CONTACT: Elaine Rudman 3911

APPENDIX 1

Policy Context

1. The work of the Health and Safety Service is directly linked to 'Vision 2030' in particular through the Active and Healthy theme by promoting and maintaining good standards of occupational health, safety and welfare within the workplace environment.
2. The work of the Food Control Service is directly linked to 'Vision 2030' in particular through the Active and Healthy theme by ensuring the safety, hygiene and standards of food produced, supplied and consumed in Gateshead and by controlling food and water-borne illness. The service also provides help and advice to small business leading to sustainable economic growth of small business.

Background

3. Gateshead Council is an Enforcing Authority under both food safety and health & safety law and has mandatory, statutory responsibilities to enforce the relevant legislation.
4. The Government's National Priorities (as identified in the Rogers Review 2007) include:
 - 'Improving health in the workplace' because of 'the high risks posed to individuals, their families, business and the costs to the economy'
 - 'The hygiene of businesses selling, distributing and manufacturing food and the safety and fitness of food in the premises' because of the high impact in terms of numbers of deaths and ill health caused by unhygienic food businesses and the high costs to the economy
5. Development, Transport and Public Protection considers the Government's Better Regulation agenda when planning and delivering its services

Consultation

6. The Cabinet Members for Environment & Transport, Adult Social Care and Health & Wellbeing have been consulted.

Alternative Options

7. The Plan is based on delivery of the minimum interventions required to meet the statutory responsibilities placed on the Council using the resources currently allocated to the services.
8. Failure to deliver the minimum interventions is not an option.
9. Delivery of a more comprehensive Intervention Plan would require additional resources.

Implications of Recommended Option

10. Resources

- a. **Financial Implications** – The Strategic Director, Corporate Resources, confirms that there are no additional financial implications arising from this report.
- b. **Human Resources Implications** - There are no human resource implications arising directly from this report.
- c. **Property Implications** - There are no property implications arising directly from this report

11. **Risk Management Implications** – Failure to deliver statutory responsibilities may result in government intervention.

12. **Equality and Diversity Implications** – An Equality Impact and Needs Assessment of these plans has indicated a neutral impact.

13. **Crime and Disorder Implications** – There are no crime and disorder implications arising directly from this report.

14. **Health Implications** - These statutory services have an important role in preventing ill health and harm and reducing health inequalities.

- The food service protects public health through the control of the spread of acute and chronic illness and by ensuring a safe, healthy and sustainable food chain.
- Enforcement of health and safety aims to prevent harm and ill health in the workplace. Tackling injuries and ill health at work benefits workers, businesses and society as a whole.

15. **Sustainability Implications** – There are no sustainability implications arising directly from this report.

16. **Human Rights Implications** – There are no human resource implications arising directly from this report.

17. **Area and Ward Implications** - This report affects all wards equally

Background material

- Section 18 ‘Standard on Enforcement’, Health and Safety at Work etc Act 1974.
- Framework Agreement on Feed and Food Controls by Local Authorities, Food Standards Agency

EXECUTIVE SUMMARY

Despite reduced resources the Environmental Health Team of the Council still responds to over 800 accidents, food poisonings and complaints and undertakes over 1500 interventions in a wide range of premises in order to build stronger, healthier, prosperous and sustainable businesses.

The Food Standards Agency (FSA) as part of its national food safety framework agreement requires all Local Authorities to prepare a service plan which sets out how the official controls will be delivered.

The Health and Safety Code (The Code) requires Local Authorities to be transparent in their enforcement role. In order to achieve this we need to publish our intervention plan and report on our performance against that plan.

This plan sets out the overall aims of the Environmental Health Team and how the Council will deliver the food safety and health and safety enforcement functions in the financial year 2017/2018.

The plan describes the profile of businesses in the borough and the way in which this determines how the intervention programmes are planned.

It also describes the nature of service requests received and how they are managed and responded to within the service.

The resources allocated to deliver the service are set out for 2017/2018 and the ways in which business and customer satisfaction are monitored and maintained.

The plan includes a review of the work of the Environmental Health Team in 2016/2017 and the priorities and plans for the coming year.

Development and Public Protection

Service Plan for the Health & Safety and Food Control Services 2017/2018



Gateshead Council

Service Plan for the Health & Safety and Food Control Services 2017/2018

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Foreword

The work of the Environmental Health Team is governed by various Acts of Parliament, Official Government Guidance and reports. The main legislation covering the teams work is the Food Safety Act 1990 and the Health and Safety at Work etc. Act 1974. The team is also monitored by and reports to the Food Standards Agency and the Health and Safety Executive. The following are some of the most recent reports that directly impact on the work of the team.

The Code

The National Local Authority Enforcement Code (The Code) relates to the health and safety service and was published in 2013 by the HSE. It has been developed in response to a recommendation by Professor Löfstedt, for the HSE to be given a stronger role in directing local enforcement of health and safety. It is also an outcome of the Red Tape Challenge on Health and Safety. It is designed to ensure that local authority (LA) health and safety regulators take a more consistent and proportionate approach to enforcement. Whilst the primary responsibility for managing health and safety risks lies with the business who creates the risk, LA health & safety regulators have an important role in ensuring the effective and proportionate management of risks, supporting business, protecting their communities and contributing to a wider public health agenda. The Code requires that LAs use the full range of regulatory interventions available to influence behaviours and the management of risk with proactive inspection utilised only for premises with higher risks or where intelligence suggests that risks are not being effectively managed. The Code provides direction to LAs on meeting these requirements, and reporting on compliance. The Code is mandatory for LAs to follow and provides suggestions for activities and sectors that are suitable for proactive inspection.

Lord Young Common Sense, Common Safety Report 2010

This report includes issues which have implications for local authorities and particularly the regulatory functions of health and safety and food safety. It recommends reducing bureaucracy associated with unnecessary health and safety and insurance requirements and tackles the compensation culture. It advocated the introduction of a register for competent health and safety consultants and hopes to reverse the risk averse approach that is seen to hamper children's development. The report reinforces the move towards risk based inspection, recommending the removal of many burdens on low risk premises, the voluntary sector and the self employed along with improved, accessible and tailored advice and guidance. It supports the ethos of earned recognition, advocating Primary Authority and recommending an enhanced HSE role for large multi-site retailers. It recommends the combination of health and safety and food inspectors in local authorities and supports the opening up of the inspection regime to accredited certified bodies.

Elliott Review

Following the horse meat scandal early in 2013, the Government tasked Professor Elliott to review the various information, reviews and some of the evidence relating to the scandal. The report was published in September 2014 and impacts on how the service operates in the future. The report raises a number of recommendations that the Government are looking at implementing. The report recommends that consumers are put first and there is a zero tolerance approach to food fraud. Intelligence about food fraud should be more widely shared. The report makes recommendations about the laboratory services and the value of sampling regimes. Independent auditing of the food industry is seen as valuable and should be encouraged, providing the audit has measures to identify and eliminate food fraud. The Government must support a co-ordinated approach to food law enforcement and look to creating a new food law crime unit. The Government must also have in place procedures for dealing with a serious food safety or food crime incident.

Food Law Code of Practice

The Food Law Code of Practice directs our activities within food safety enforcement. It sets out the levels of competence required to enforce food safety legislation and how we will risk rate food premises. The Food Law Code of Practice requires that we have a Lead Food Officer, who is able to advise everyone concerned with food safety enforcement. This includes advising management, Councillors and officers on the requirements of the legislation and the Food Law Code of Practice. The competencies necessary to perform this role are laid out within the Food Law Code of Practice. This role is given to the Senior Environmental Health Officer within the team.

Introduction

This plan sets out how the Council will deliver the food safety and health and safety enforcement functions in the financial year 2017/18. The details concerning the time required for each element is in officer days. Each full time officer has 220 days available for carrying out their duties.

In 206/17 the Environmental Health Team of the Council responded to over 800 accidents, food poisonings and service requests down on last year's figure of 900. However, we undertook over 1500 interventions in a wide range of premises in order to build stronger, healthier, prosperous and sustainable businesses, an increase of 200 on previous years.

Nationally there are over a million cases of food poisoning each year, 20,000 hospitalisations and 500 deaths. This costs the economy £1.5 billion each year. 30.4 million working days were lost in 2015/16 due to work related illness or injury, 144 workers were killed at work. Workplace ill health and injury cost society £14.1 billion in 2015/16.

The Food Standards Agency (FSA) as part of its national food safety framework agreement requires all Local Authorities to prepare a service plan which sets out how the official controls will be delivered.

The Health and Safety Code (The Code) requires Local Authorities to be transparent in their enforcement role. In order to achieve this we need to publish our intervention plan and report on our performance against that plan.

Gateshead Council is responsible for the enforcement of food safety legislation in approximately 1600 premises and health and safety law in approximately 3000 premises. Our food premises range from food manufacturers to retailers and restaurants, whilst health and safety covers the service industries including warehouses, retail premises, hotels and leisure facilities.

To ensure local transparency and accountability, to show the service's contribution to Vision 2030 and to meet the requirements of the FSA Framework Agreement this plan is approved by Members on behalf of Gateshead Council.

The plan highlights that the team does not have the necessary resources to complete all of the required works. The team will therefore prioritise work on a risk basis. Inspections will be targeted at high risk and poor performing businesses. For low risk businesses a system of alternative interventions will be used, including questionnaires, sampling visits, monitoring checks and checks by other teams during their visits. New food businesses will be asked to complete a questionnaire so that their initial visit can be prioritised. We will also examine the possibility of using contractors to undertake a number of food hygiene inspections.

1. Service Aims & Objectives

1.1 Aims

We aim to:

- Ensure that food produced, sold or consumed in the borough is safe to eat and that businesses comply with food law;
- Protect the safety, health and welfare of people at work in Gateshead and to safeguard others who may be exposed to risks from the way that work is carried out; and
- Improve working conditions in the Borough through a programme of workplace inspections and self assessment, and accident, incident and complaint investigation.

1.2 Objectives

To achieve these aims we have the following objectives:

- Deliver the official controls on food law as set out in the FSA Framework Agreement
- Ensure food is safe, fit to eat and free of contaminants
- Protect consumers from food fraud
- Improve compliance in food businesses using advice, guidance and when necessary enforcement
- Maintain an accurate database of food establishments
- Carry out a programme of food safety interventions at a frequency appropriate to risk
- Respond effectively to complaints relating to food and water
- Ensure that readily accessible advice and assistance is available to businesses and the public
- Carry out the annual sampling programmes for microbiological examination and compositional analysis, including participation in regional and national surveys
- Regularly survey imported food to prevent unsafe or illegal food from entering the market
- Approve establishments for handling products of animal origin as required
- Carry out surveillance of suspected and confirmed illness that has the potential to be food or water borne and implement control measures to prevent further illness
- Enforce a wide range of relevant health and safety legislation.
- Establish and maintain a planned inspection programme based on a risk-based priority planning system to select premises for inspection.
- Develop a range of campaigns and intervention programmes aimed at both specific business sectors and specific business risks to improve health and safety.
- Investigate complaints from the public about health and safety issues
- Investigate notified accidents, incidents and cases of occupational ill-health
- Advise, educate and assist businesses to comply with legal obligations and promote self-regulation using self-assessment tools.
- Administer and regulate statutory permission and registration regimes for specific work activities linked to health risks, such as
 - The Control of Asbestos at Work Regulations 2006
 - Gateshead Byelaws for the registration of practitioners and premises carrying on the practice of Acupuncture and the business of Tattooing, Semi-Permanent Skin-Colouring, Cosmetic Piercing and Electrolysis.

- Promote issues in the Government White Paper, 'Choosing Health' by improving working conditions to reduce the causes of ill-health related to work, promote the work environment as a source of better health and support 'Smoke Free Gateshead'
- Work closely with businesses including Workplace Health and Safety Representatives and Trade Union Representatives
- Support the principles of the Primary Authority Scheme to improve regulatory consistency and reduce burdens on business.

1.3 Links to the Council Plan

The Council Plan 2015-2020 sets out how the Council will achieve its aims and objectives. The Environmental Health team contributes in many areas of delivery, in particular:

- **Prosperous Gateshead** The team have a major role to play in ensuring a prosperous Gateshead. By ensuring that businesses comply with the law and by promoting best practice we can ensure that our businesses are best placed in a competitive world. We assist a number of businesses that are trading internationally, by providing a fast responsive service that is open to the needs of business. We help businesses grow and develop and improve the service they provide by offering help and advice, this in turn provides more jobs and reduces financial exclusion and child poverty. The voluntary sector also receives help and advice from the team and helps develop.
- **Live Love Gateshead** By helping to create healthy and safe places to eat and visit within Gateshead we are encouraging visitors and residents alike to enjoy the facilities and attractions here and to enjoy safe events across the Borough. The team has an active role in the Virtual Rural Economic Strategy Team, providing advice and guidance on businesses and improving the rural economy. The team inspects the mobile and permanent traders that operate in our parks and open spaces, improving the facilities available to visitors.
- **Live Well Gateshead** The team are working hard to reduce the risks of injury and ill health at work, meaning that people have a longer and happier life. The team manages and assesses the better health at work award on behalf of the Council, promoting healthier work places. We are also providing safe places to eat, reducing the incidence of food poisoning and ill health from the food we eat. We have also become more involved in providing advice to event organisers to ensure that events are safe for all.

1.4 Vision 2030

The work of the Food Service is directly linked to 'Vision 2030', Gateshead's Sustainable Community Strategy and the heart of an ambitious long term plan developed by Gateshead Strategic Partnership following extensive consultation. The most relevant of the 'Six Big Ideas' within Vision 2030 to the team is '**Active and Healthy Gateshead**'

What we eat can make a big difference to our health and the Food Service plays a key role in diet and nutrition by checking the accuracy of food composition and labelling through the sampling programme. This helps people to make healthy choices based on accurate product information. We can also help raise Gateshead's profile - for example, by making sure that restaurants and hotels meet the legal standards and produce safe food for visitors and residents.

Good health is fundamental to well-being and long life and the annual inspection programme helps to ensure that food safety standards are met and workplaces are safe and healthy.

The web based initiative known as the Food Hygiene Rating Scheme places food hygiene information into the public domain and encourages food business operators to achieve higher hygiene ratings

2. Background

The service is a statutory function enforcing food safety and health and safety legislation across Gateshead. By using a variety of interventions and techniques we are seeing a sustained improvement in food safety levels, indicated by the increasing numbers of food businesses rated as 5 in the Food Hygiene Rating System. With over 800 accidents, food poisonings and complaints per year to respond to and over 1500 interventions we are constantly looking for ways to improve our service and be more efficient.

2.1 Profile of the Local Authority

Gateshead Council is one of five historical Tyne and Wear borough councils. It has the largest area of 55 square miles and the 22 wards cover a mix of urban and rural environment with a population of approximately 200 000, with 64% being of employable age. The borough stretches for 13 miles along the south bank of the River Tyne.

Gateshead is an area with exciting new developments including progress toward a modern, vibrant town centre with the Trinity Square Development and further schemes include the redevelopment of Blaydon Centre, and new or replacement food stores at Birtley, Felling, Coatsworth Road and Ravensworth Road centres. Businesses in Gateshead currently provide approximately 100 000 jobs.

The Council adopted a Hot Food Takeaway Planning SPD in June 2015. The SPD sets out the Council's priorities and objectives in relation to planning control of hot food takeaways. It elaborates upon existing and emerging policy in relation to health and wellbeing. Gateshead has a rate of 0.96 hot food take aways per 1 000 population.

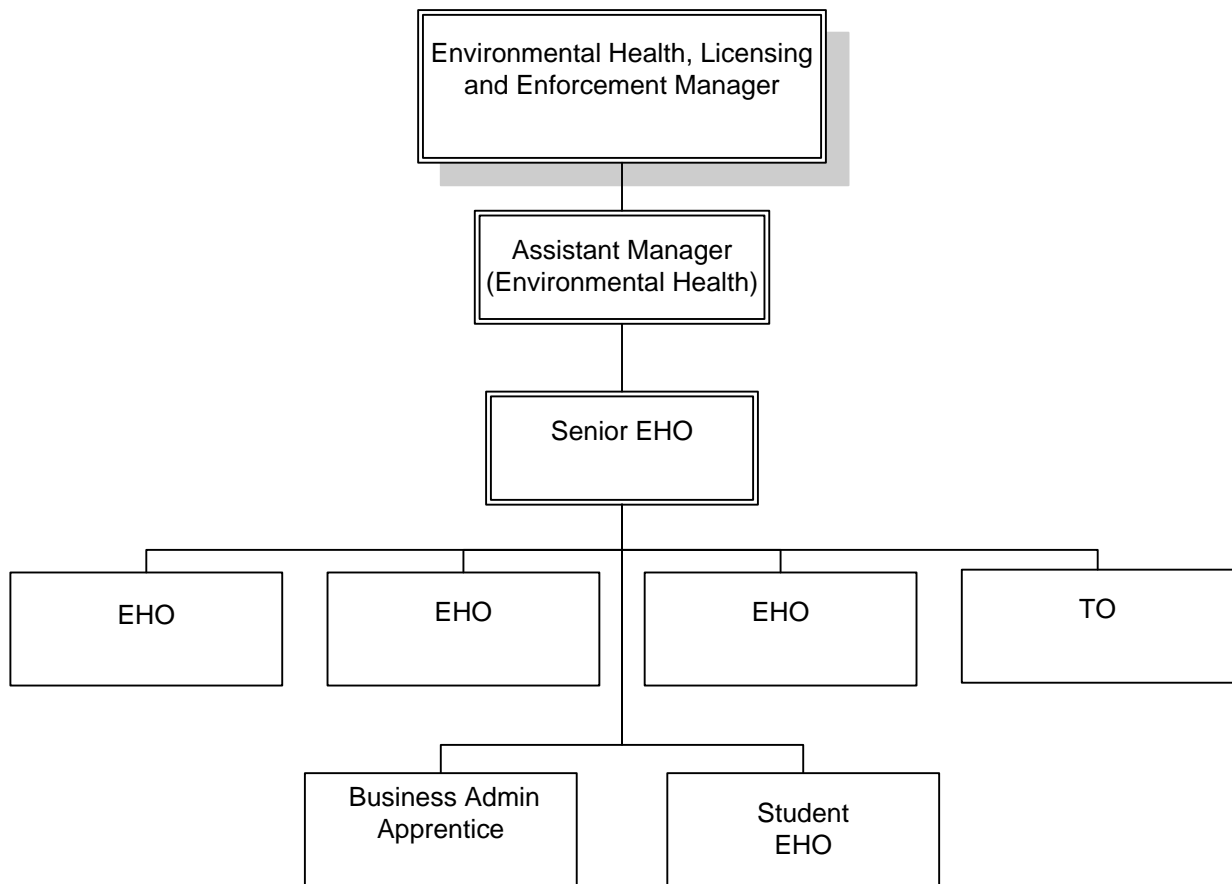
Gateshead also includes:

- The Metrocentre, one of Europe's largest indoor shopping and leisure complexes
- The Team Valley Trading Estate, home to over 650 companies and includes the Retail World shopping area
- Gateshead International Stadium
- Gateshead College

The Team is based at the Civic Centre in Gateshead with office hours being from 0830 to 1700 hours. Members of the Team voluntarily provide an unofficial out-of-hours service to carry out interventions and investigations that cannot be achieved during office hours.

The Council operates a 24 hour emergency response through Care Call, and Development & Public Protection has arrangements in place for Care Call to be able to contact a relevant officer in case of emergency outside normal office hours.

2.2 Organisational Structure



There are no planned structural changes to the team in 2017/18; however the student post is currently vacant. The Team sends regular reports to the Environment & Transport Portfolio and Adult Social Care & Health and Wellbeing Portfolio.

2.3 Specialist Services

The Environmental Health Team works closely with the following specialist services:

- Public Analysts - Alan Richards, Public Analyst Scientific Services Ltd and Nigel Payne
- Infectious Disease Control – Public Health England (Proper Officer: Dr Roberta Marshall)
- Microbiology laboratory – Public Health England Food Water and Environment Laboratory York

2.4 Premises Profile

2.4.1 Health and Safety Premises

The Health and Safety (Enforcing Authority) Regulations allocates enforcement responsibilities between Local Authorities and the HSE. Premises profiles fluctuate throughout the year due to businesses opening / closing and changes in use. The service database is updated with any changes as they become evident.

Local authority enforced business classifications	2016/17	2017/18	Change
Retail Shops	1020	987	-33
Wholesale shops, warehouses and fuel storage	301	292	-9
Offices	609	529	-80
Catering, restaurants and bars	560	586	+26
Hotels, campsites and other short stay accommodation	34	35	+1
Residential care homes	70	70	0
Leisure and cultural services	119	116	-3
Consumer services and membership organisations	426	422	-4
Other premises	20	19	-1
Total	3159	3056	-103

2.4.2 Food Premises

Particular local requirements include:

- 7 companies currently have approval for handling products of animal origin and Sprouting Seeds.
- Major retail, wholesaling, and warehousing complexes, including the Metrocentre and the Team Valley Trading Estate.
- Several large food producers including Kavli, Northumbrian Fine Foods, Paradise Foods, Dalziels, Beckleberys and Its All Good.
- The Queen Elizabeth Hospital cook-chill production unit.
- Third country importers, including Traidcraft (specialising in fairly traded goods).
- Specific needs of various ethnic groups.

Type of Premises	2016/17	2017/18	Change
Primary Producer	1	1	0
Manufacturers and Packers	55	57	+2
Importers/Exporters	3	4	+1
Distributors and transporters	59	64	+5
Supermarket/Hypermarket	36	42	+6
Smaller retailers	309	299	-10
Retailers – Other	43	49	+6
Restaurants/café/canteen	252	270	+18
Hotel/Guest house	29	27	-2
Pub/Club	205	202	-3
Takeaway	228	232	+4
Caring establishment	104	104	0
School/College	91	91	0
Mobile food unit	75	82	+7
Restaurant and caterers - other	142	129	-13
Other	10	7	-3
TOTAL	1642	1660	+15

2.5 Client Profile

The client profile for the service is wide-ranging and varied, being based around all Local Authority enforced businesses and all food businesses.

Our clients include those who make a request for service (complaints or advice) about these, or proposed businesses. This will include owners, employees, managers, trade union/employee representatives, customers, residents and visitors. We appreciate the various and diverse needs of these people will affect how we work with them – issues such as language, experience, education, disability, age, time available can all make a difference.

Our database allows us to identify information about businesses that enables specifically targeted work. For example, we can group them by businesses classification/type, geographical area and business name.

We also respond to specific health and safety queries. For example, providing health and safety information and advice to students and other local authorities and investigate smoking complaints in ALL businesses and vehicles.

Our customers include Government departments, regulatory bodies such as Health and Safety Executive (HSE), Fire Authority, Police Authority, other teams within Gateshead Council, other local authorities and agencies such as Public Health England (PHE), Local Government Regulation (LGA) and Chartered Institute of Environmental Health (CIEH). Some of these are also our partners. We also assist the Director of Public Health in achieving some of her targets with respect to infectious disease, smoking and workplace health.

3. Service Delivery

3.1 Proactive Work

The intervention programme is continually monitored and reviewed by Lead Officers in the Team with the following factors being assessed:

- Most appropriate intervention for risks associated with a business
- Qualifications, experience and competency of the officer carrying out an intervention
- Additional intelligence that may be gathered during the year (food fraud, illegally imported food, accidents)
- Use of unscheduled interventions for increased risks or newly identified hazards
- New businesses added to the programme.

3.1.1 Health and Safety

HELA LAC 67/2 (rev 6) provides guidance for priority planning of inspections through a risk based system. The LAC no longer requires a risk assessment of premises to be carried out, however in order to assist in prioritising interventions Gateshead Council will continue to use the previous system of risk rating where officers score premises based on four risk elements and assign a rating value to each of these elements:

- Confidence in management
- Health performance
- Safety performance
- Welfare standards

The system then categorizes the risk the premises pose as high (A), medium (B1/B2) or low (C). We will undertake an inspection of A rated premises at least once per year and B1 rated premises will receive an intervention every 2 years. We have decided an intervention frequency not less than 3 yearly for B2 and 5 yearly for C category premises. This takes into account the number of premises in these categories, the resources available for delivering the service plan and local/ historical knowledge of the premises database. Premises will only receive a face to face intervention if there is a reason to do so.

All intervention visits contain an element of smokefree enforcement and officers will check for compliance with the legislation.

The types of interventions for all premises are directed by the Code. Broadly these fall into two groups, proactive and reactive. The two groups include a number of different options and include:

Proactive interventions:

- Partnership
- Motivating senior managers
- Supply chain
- Design and supply
- Sector and industry wide initiatives
- Working with those at risk
- Education and awareness
- Inspection
- Intermediaries
- Best practice
- Recognising good performance

Reactive interventions:

- Incident and ill-health investigation
- Dealing with issues of concern that are raised and complaints

A traditional inspection is reserved for only a very small number of premises, so the majority of interventions will come from the other options. In 2017/18 we have 2 A rated premises. These are small premises that had serious deficiencies at the last inspection. They will receive an inspection and their rating is expected to be lowered.

Low risk businesses are unlikely to be visited, but will receive a self assessment questionnaire and written advice on how to improve their health and safety performance. These businesses will then be able to request an advisory visit if they so wish.

All other businesses will receive a face to face intervention from one of the above categories. The Code provides for a number of industry wide initiatives to promote safety in high risk areas. In 2017/18 these initiatives include fragile roofs and falls from height, duty to manage asbestos, Ill health at visitor attractions with animals, beverage gases in the hospitality industry and gas safety in commercial premises.

HSE Category	Rating score	Intervention frequency (set by LAC 67/2 rev 3; or Gateshead)	Total on database	Due in 2017/18	Time Required (Days)
A	5 or 6 on any risk	Inspect not less than once per year	2	2	2
B1	4 on any risk	Premises for intervention. Premises without an intervention within 18 months to be reviewed	2	2	2
B2	3 on any risk	Premises for intervention. Gateshead standard is an intervention not less than every 3 years	239	181	24
C	No score greater than 2	Assess premises, but suitable for non-inspection intervention methods\ techniques. Gateshead standard is an intervention not less than every 5 years	2555	1248	42
Unrated	Unknown	Gateshead standard is an intervention according to the perceived priority	258	257	34
Total			3056	1690	146

3.1.2 Food Safety

The Food Service uses the FSA's intervention rating scheme to determine the frequency that food premises should receive an intervention. This ensures that all premises are visited at an appropriate minimum interval determined by their risk rating.

Interventions are defined as activities that are designed to monitor, support and increase food law compliance within a food establishment. They include, but are not restricted to:

- Inspections (full and/or partial) and audits
- Monitoring
- Verification and surveillance
- Sampling where the analysis/examination is carried out by an Official Laboratory.

The tables below show how many premises the Service has in each risk category on 1 April 2017, together with the projected number of interventions required during the financial year:

FSA Risk Category	Minimum intervention frequency	No. on database	Projected interventions due 2017/18	Bought forward from 2016/17	Time Required (Days)
A	6 months	6	12	0	24
B	12 months	33	33	0	33
C	18 months	325	140	107	124
D	24 months	620	301	186	66
E	36 months	520	254	68	44
UNRATED		156	156	0	63
Total		1660	896	361	354

Unrated businesses are those that have not yet been inspected and therefore do not have a rating. New businesses are continually added to the programme throughout the year. 138 were added during 2016/17 with 33 of them receiving an inspection, taking approximately 16 days of EHO time. A total of 85 new businesses were inspected during the year.

3.1.3 Food Standards

The table below shows the number of premises that the Council has on its database and the number of interventions required during the year.

FSA Risk Category	Minimum intervention frequency	No. on database	Projected interventions due 2017/18	Bought forward from 2016/17	Time Required (Days)
A	12 months	19	19	0	20
B	24 months	705	98	505	247
C	5 years	778	120	276	54
UNRATED		161	161	0	65
Total		1663	382	797	386

3.1.4 Feed Safety

As part of our ongoing commitment to reducing burdens on business, we have agreed with Trading Standards to undertake feed safety interventions at the same time we undertake food safety interventions. This should have limited impact on the work of the team, but will remove the need for a second officer to visit the premises to undertake a separate feed visit. The time for these has been factored in to food hygiene interventions.

3.2 Service Requests

3.2.1 Health and Safety

The Council investigates requests for service from a wide customer base about health and safety issues in the workplace. We endeavour to provide comprehensive information and advice on health and safety when requested.

We have an internal policy, based on HSE guidance to determine whether requests for service will / may / will not be responded to. Our target is to respond to 100% of those requests for service that meet our selection criteria within two working days.

In 2016/17 we received the following number of requests for service:

Complaint Type	Number of Requests	Time Allocated 2017/18 (days)
Health and Safety	68	18
Accidents (none RIDDOR)	2	1
Licensing	210	28
Public Health	10	4
Smoking	7	1
Total	297	52

3.2.2 Food Safety

The Food Service receives complaints about food and food businesses. These are investigated in accordance with the selection criteria. Numbers of complaints received in 2016/17 are shown in the table below:

Nature of request	Number of Requests	Time Allocated 2017/18 (days)
Premises	56	22
Standards	65	34
Hygiene	70	19
Rerating Request	3	3
Totals	194	78

3.3 Home Authority Principle and Primary Authority Principle

Gateshead Council fully supports the Home Authority Principle and the Primary Authority Partnership Scheme.

The Food Service is Home Authority for a number of producers and as such provides advice and investigates incidents on behalf of other Local Authorities. The Service does not have any Primary Authority arrangements in place, but is currently looking to enter into a partnership agreement with a local business.

Gateshead must abide by the relevant principles and guidance when it deals with any business that has a Primary Authority agreement. The Better Regulation Delivery Office website is regularly monitored to identify new primary authority partnerships and the premises database updated with relevant information.

3.4 Advice to business

The Food Service not only provides advice on compliance and business improvement during each visit, but also responds to requests for advice from local businesses and members of the public. The total numbers of requests received in 2016/17 is 104, this level is the same as last year. These requests were dealt with by way of signposting clients to online advice. Where a client requires bespoke advice then we charge £75 per hour.

The advice provided varies from forwarding website links or information packs to visiting a business to provide detailed advice on compliance and controlling hazards.

3.5 Food sampling

Food sampling is carried out in accordance with our procedures. The food and businesses sampled are determined by our intervention and sampling programmes and additional information received such as allegations of food poisoning, complaints, newly identified businesses, processes or hazards.

Annual sampling programmes are developed following consultation with the North East Food Sampling Group, the Public Analysts and Public Health England. The programmes support national food surveys (identified by FSA and Local Government Regulation) as well as regional and local priorities.

The time required includes the time taken for resamples and investigations of failed samples.

Samples taken	2015/16	2016/17	Time Allocated 2017/18 (days)
Microbiological examination	500	327	279
Analysis (composition/labelling)	219	66	96
Total	719	393	375

In 2016/17 we contributed to the PHE Cross Regional Studies on unpasteurised fruit and vegetable smoothies, hygiene during the production and handling of Ice, re-usable bottles for antibacterial sprays/sanitiser and cooked crustaceans and other cooked shellfish. In 2017/18 the studies will involve cooked meat products, bakeries, farm shops and school kitchens.

The FSA studies have been agreed, following a change to the way that the sampling is funded there are significant consequences for the compositional sampling programme, with the number of samples allocated to Gateshead being vastly reduced.

3.6 Control and investigation of outbreaks and food related infectious disease

The Food Service aims to safeguard the public through surveillance and investigation of food and water related infectious disease. The Service works closely with Public Health England and follows agreed disease specific procedures and when relevant, Outbreak Control Plans.

Numbers of incidents notified to the Service in previous years are shown in the table below:

Infectious disease	2015/16	2016/17	Time Allocated 2017/18 (days)
Investigated	153	146	101
Monitored	242	193	15
Outbreaks	4	2	45
Totals	399	341	102

We now only record outbreaks that we respond to and have estimated the time allocation based on 5 officers responding.

The number of Giardia cases reported to the team has increased from 16 in 2015/16 to 44 in 2016/17. There does not appear to be any underlying reason for the increase, but it may be due to

better detection techniques. These are investigated cases, so they have a significant impact on the service.

During the year there have been improvements in the use of DNA analysis of food poisoning organisms. This has meant that during a *Cryptosporidium* outbreak linked to 2 swimming pools we were able to identify a very rare strain of the protozoan. This enabled us to confirm links and the source of the outbreak.

3.7 Food safety incidents

The Service regularly receives reports of food incidents from the FSA via e-mail and text. Action depends on the nature of the incident and will be dealt with in accordance with the FSA Code of Practice. The majority are for information only but Food Incident warnings and Food Alerts for Action may require immediate action to remove the food hazard from the food chain. These Alerts/Incidents can potentially have an impact on programmed interventions.

There are a large number of product recalls received during the year, which officers need to be aware of. During the year 6 alerts for action were received and 145 alerts for information. Alerts for information do not normally require any direct action, but officers need to be aware of the issues during inspections.

3.8 Statutory Notifications

A significant part of the health and safety workload is taken up with accident investigation. Certain injuries, dangerous occurrences and occupational diseases are reportable by businesses to the enforcing authority using RIDDOR. Incidents are selected for investigation in accordance with HSE Guidance, local and national priorities.

In 2016/17 we received 132 accident notifications and we investigated 32 of these. This was an increase on the previous year. That took a total of 32 officer days to carry out and a further 2 days to administer all notifications.

We will respond to notifications of defective lifting equipment within two working days or more promptly where appropriate, to ensure the risk of injury is minimised or eliminated.

The Council must be notified by licensed asbestos contractors about any asbestos stripping operation taking place in Council enforced premises. We will respond to all notifications in an appropriate timescale and liaise with the contractor to ensure that all work takes place according to legislative guidelines to minimise risk.

3.9 Registrations / Approvals

Byelaws require the registration of people and premises carrying out acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis.

The Council is required to maintain a register under the Local Government (Miscellaneous Provisions) Act 1982 and charges are made for registration of persons and premises used for each activity. In 2016/17 we processed 42 applications for skin piercing, taking a total of 28 officer days. The team have commenced a scheme targeting tattooists, with the aim of improving hygiene conditions in tattooist parlours. The Tattoo Hygiene Rating Scheme gives tattoo parlours a rating similar to the Food Hygiene Ratings. The aim is to encourage customers who wish to get a tattoo, to only go to premises with a good rating. We currently have 3 premises taking part in the scheme.

We also maintain a public register of installations under the Notification of Cooling Towers and Evaporative Condensers Regulations 1992. This can be used as a source of information in the investigation of a suspected legionella outbreak or for planning initiatives to control Legionella.

Each of the premises approved under food hygiene legislation requires a visit and sampling intervention during the year. We also receive a number of applications each year. This year we received 2 new applications for approval.

3.10 Licensing Applications

The service is a statutory consultee under the Licensing Act 2003 and the Gambling Act 2005. The number of applications received is given in the table within section 3.2.1 showing the number of health and safety service requests received. The service responds to both premises licence applications and Temporary Event Notifications. We are also a consultee for street trading and market consents.

3.11 Business training and information

We will raise awareness with relevant businesses of legislative changes as they occur.

We encourage training courses for both inspectors and for businesses (over and above the statutory minimum) including those approved by the Chartered Institute of Environmental Health, FSA and the HSE.

3.12 Liaison and Partnerships

The health and safety service has close and regular contact with the HSE via the North East Occupational Health and Safety Group. This results in shared priorities, and action plans with delivery through partnership working across the region. The HSE LA Partnership Officer attends and provides access to specialist services and shared resources. The group exists to promote uniformity, consistency and a sharing of knowledge. It fully supports the development of the partnership between HSE and Local Authorities working together and represents the Tyne and Wear, Durham and Northumberland authorities. Opportunities for joint working on both a national and regional level are explored and developed. There is a sub group which looks at skin piercing activities and promotes consistency in enforcement across the region.

Wider liaison with other environmental health professionals is supported via links with the CIEH (initially through the North East Regional Management Board) and the Knowledge Hub website.

The Food Service works very closely with neighbouring councils through the North East Food Liaison Group. Representatives meet quarterly to promote uniformity and consistency on issues such as enforcement, competency and training. It provides a forum for the sharing of knowledge and experiences to improve good practice and consistency. There are 2 sub-groups, one for microbiological sampling and one for food standards. The microbiological group is chaired by the Services Assistant Manager. An EHO from Gateshead represents the wider region on the National Food Standards Focus Group.

The Service has close links with the Public Health England (PHE), Food, Water and Environment (FWE) Laboratory, now based in York. The PHE laboratory provides expert advice on microbiological issues associated with food poisoning, sampling and complaint investigation. Meetings are held regularly between the north east local authorities and key laboratory personnel to discuss practices, training and current issues.

The Service has formally appointed Public Analysts and has established close working links associated with sampling, chemical analysis and labelling. The North East Food Sampling Groups meet quarterly to discuss compositional and microbiological issues, and to arrange coordinated regional sampling targeting wider and emerging food safety issues.

We work in partnership with the NE Health Protection Unit of PHE concerning notification of infectious diseases, reporting and investigation of food or water borne illness and infection control.

There is regular contact with the FSA and this includes reporting food safety and fraud issues for the national database to assist in investigations by other organisations and the annual Local Authority Enforcement Management Scheme (LAEMS) return of data. Over the coming months the new Food Crime Unit will also become an important point of contact and we will be sharing information and intelligence with it.

Wider liaison with other environmental health professionals is supported via links with the CIEH and the Knowledge Hub website. The service also works closely with other services and groups within the council.

3.13 Events Advice

The team has taken responsibility for coordinating advice across Development, Transport and Public Protection with regards to planned events within the Borough. This includes attendance at Safety Advisory Groups and commenting on event plans. An Events review panel has also been set up chaired by the teams Assistant Manager to look at how the Service responds to events. The panel also reviews recent events and coordinates the services responses to forthcoming events. The panel is also helping the Events Team to provide simple advice via the Councils website to help event organisers plan safer events.

Linked into this work is the requirement for the Sage Gateshead to obtain permission from the team for performances that use certain effects, such as pyrotechnic devices and lasers.

3.14 Prosecutions / Simple Cautions

3.14.1 Prosecutions

A manager of a local take away premises was prosecuted as the food business operator for hygiene failings at the premises. The manager pleaded guilty and was fined £1200 for 2 offences, with a £120 victim surcharge and £200 costs. A total of £1520.

A joint prosecution was taken with Trading Standards for the sale of counterfeit vodka and the sale of alcohol below the unit price detailed in the Councils Licensing Policy. The Food Business Operator entered a not guilty plea. The Food Business Operator was found guilty of 11 charges and fined £3451 for the counterfeit vodka and £1200 for licensing offence.

Following a joint operation with Northumbria Police relating to modern day slavery officers identified that a take away was using ground peanuts instead of ground almonds as stated on their menu. Further investigations showed they were also selling mutton instead of lamb. The food business operator pleaded to two offences and was fined £2000 with £200 costs.

3.14.2 Simple Cautions

A general dealer accepted a simple caution for selling cans of pop 2 years beyond their best before date and failing to provide information required by the investigating officer.

A food business operator of a take away premises accepted a simple caution for using mixed nuts instead of ground almonds. The food business was in the process of changing menus to show they used mixed nuts. The food business operator was able to prove they had ordered ground almonds, but mixed nuts had been delivered instead.

4. Resources

4.1 Finance

4.1.1 Expenditure

An overall expenditure budget for 2017/18 has been set that covers:

- Salaries, national insurance and superannuation
- Vehicles
- Sampling
- Analytical fees
- Incineration and waste disposal
- Control of infectious diseases
- Consumable materials and technical equipment

A 'credit' system is operated by the FWE laboratory for microbiological samples taken for the protection of public health. Each Authority is allocated an annual number of credits to 'spend' on the various tests. There is no charge to the authorities for samples taken within the credit allocation.

The Service has and will continue to take advantage of free and highly subsidised training provided by the FSA and PHE.

4.1.2 Income

Charges apply for the registration of skin piercing premises and practitioners. These are one-off charges that provide a small amount of income to the team. The fees are £240 for a premises registration and £120 for a personal registration. We also intend to introduce a charge for varying a certificate, in line with other Local Authorities in the region

A charging system has been introduced to allow for recouping the costs of non-statutory functions. In 2016/17 the team provided 4 export certificates for local businesses. Charges for these certificates and other advisory work is £75 per hour. Other charges are for the non-statutory sampling of food items and APHA declarations. We intend to introduce a charge for carrying out of FHRS rescoring visits, this is expected to be at £160 per visit.

We also assist other teams, by sharing information, including changes of business owners and opening times.

4.2 Resources

The following tables show how much time in days officers have allocated to the various parts of the service. These are projected figures based on the estimated times allocated during 2015/16 as shown in the previous tables. In calculating the resources required the management figures are excluded as they are not included in the time calculations shown above.

4.2.1 Management

Officer	H & S	Smokefree	Food	ID
Environmental Health, Licensing and Enforcement Manager	11	4	55	6
Assistant Manager	33	8	124	8
Senior EHO	6	5	88	11

4.2.2 Operational

Post	Officer	H & S	Smokefree	Food	ID
1	Assistant Manager	11	3	41	3
2	Senior EHO	6	5	88	11
3	EHO	22	0	176	22
4	EHO	22	0	176	22
5	EHO	22	0	176	22
7	Business Admin Apprentice	44	2	154	20
8	TO	0	0	198	22
9	Student EHO	Currently Vacant			
	Total	171	12	1163	142

4.2.3 Competence

Each officer has a level of competence and specialism that directs what type of work they are able to undertake. The Senior EHO undertakes assessment of each officer on a regular basis. Regular A&D's identify any training issues and how best to provide the training. The team also undertakes a number of exercises to test competence and help improve knowledge and confidence. The team took part in the national consistency exercise run by the FSA earlier in the year.

4.2.4 Overall Resource Required

Activity	Visits / investigations	Total Time
Health and safety inspections	4	6
Health and safety face to face interventions	434	59
Health and safety none face to face interventions	1248	42
Accident investigations	32	34
Health and safety service requests (Includes licensing Applications)	290	52
Skin piercing applications	20	20
Smokefree complaints	7	1
Food safety inspections	1101	290
Food standards inspections	1025	320
New Businesses	317	129
Food premises approvals	9	16
Food sampling interventions	719	376
Infectious disease investigations	399	161
Food service requests	188	75
Food Safety Notices	151	26
Food Advice	104	14
Prosecutions	3	60
Simple cautions	2	30
Events Advice		48
Meetings		79
Training		80
ICT Maintenance		20
Total	6053	1938

	H&S	Smokefree	Food	ID	Other	Total
Time Available	193	21	1142	132	0	1488
Time Required	212	1	1334	161	227	1639
Balance	-20	21	-193	-28	-227	-448

4.3 Staff Training and Development

Food training is provided free of charge by the FSA and is available both regionally and nationally. Officers are required to maintain 10 hours CPD in food related training in order to maintain their basic food competence. The FSA are consulting on a proposal to require all officers involved in food enforcement to maintain 20 hours CPD. The impact of this will be evaluated and comments made to the FSA.

Further training is provided through the North East Public Protection Partnership. Environmental Health Officers must maintain a minimum of 20 hours CPD to maintain competence and 30 hours if chartered Environmental Health Professionals. Environmental Health Officers are also career graded and must take on extra responsibility to progress within the career grade.

5. Quality Assessment

The Team is fully committed to the principles of continuous improvement and will strive to maintain high standards of performance.

Officer workload, enforcement decisions and data recording will be monitored by the Senior EHO to ensure consistency and accuracy. Health and Safety enforcement decisions are confirmed by using the Enforcement Management Model.

Officers undertake joint visits to ensure consistency and share knowledge and best practice.

The Intervention Plan and Sampling Programme are monitored on a monthly basis and progress is reported to the Head of Service.

Business and consumer satisfaction is monitored through the use of postal surveys. The survey in 2015/16 showed that respondents strongly agreed that overall they were satisfied with the inspection service they received. Full results can be found in the Customer Satisfaction Survey End of year Report.

6. Review

Below is a review of the work completed in 2015/16. Due to changes in working practices and coding of premises that occurred during the year it is not always possible to directly link the planned work with what has been carried out. Also many of the visits included visits to previously unrated premises. Many food premises now receive a joint intervention that includes both food and health and safety.

6.1 Health and Safety

Sector, premises type or specific cross sector activity	Planned activity or resource		Achieved	Comments
	Visits / contacts	Officer days		
Health and safety inspections	2	2	2	
Health and safety face to face interventions	251	102	48	Mainly included as joint food hygiene interventions and includes a number of take away premises
Health and safety none face to face interventions	386	52	683	376 self assessment questionnaires were completed.
Accident investigations	38	38	31	
Health and safety service requests (Includes licensing Applications)	139	34	102	
Skin piercing applications	28	28	42	
Smokefree complaints	10	1	7	
Total	854	257	915	

6.2 Food Safety

Activity	Planned	Officer Days	Achieved	Comments
Food Hygiene Interventions				
A	8	16	8	A number of new high risk establishments have been identified during the year.
B	31	31	31	Those not inspected were due in March 2016.
C	314	157	169	Premises that are broadly compliant and low risk have not been visited in preference to higher risk establishments and taking enforcement actions where low compliance
D	297	40	89	
E	173	23	77	
Unrated	151	61	72	
Food Standards Interventions				
A	19	19	19	
B	604	245	193	Standards interventions are normally undertaken at the same time as hygiene interventions. However, where a sampling intervention is undertaken, the standards intervention is not carried out until the next inspection.
C	297	40	14	

It should be noted that during the year the sampling officer has been on long term sick leave and this has reduced the number of interventions that we were able to undertake. In the following table, planned activity is taken from the activity reported in last years' service plan. The level of activity is dependent upon the number of reports and what formal action is taken throughout the year.

Activity	Projected	Officer Days	Achieved	Comments
Sampling				
Microbiology	500	338	327	
Compositional	219	148	45	
Infectious Disease				
Investigated	153	62	127	
Monitored	242	16	164	
Outbreaks	4	20	2	Fewer outbreaks were reported in the last 12 months.
Service Requests				
	185	75	194	
Enforcement				
Written warnings	215		331	These figures reflect our commitment to improving conditions within the poorest performing premises.
Hygiene Improvement Notices	16		24	
Hygiene Emergency Prohibition Notices	0		1	
Prosecutions	2		3	
Voluntary Closure			2	
Simple caution	0		2	
Voluntary surrender	6		19	
Condemnation	0		0	

7. Service Improvements

7.1 Health & Safety

We will continue to expand the number of joint visits that are carried out to reduce burdens on business and work in a more efficient way. This is particularly true in take away premises where an intervention can only be undertaken in the evening.

We will continue the use of mailshots to lower risk businesses and provide guidance combined with self-assessment questionnaires.

We will examine the use of alternative means of contacting businesses.

7.2 Food

We will become more risk based in our approach to inspections. Lower risk businesses will receive self-assessment questionnaires, whilst compliant businesses at last inspection will receive an alternative intervention.

The highest risk premises and poor performing businesses will still receive an inspection.

If necessary we will utilise consultants to undertake inspections of medium risk businesses where we are unable to achieve our programmed targets.

We will examine the use of alternative ways of working and where colleagues are visiting premises ask them to obtain some basic information to assist us.

We will target new businesses, in order to reduce the number of outstanding inspections..

We will encourage more use of online information sources for businesses, applications and reporting of problems.

7.3 Service Priorities

In 2017/18 the Development & Public Protection Service Priorities we will contribute to will be:

- Improving Health and Wellbeing
 - Ensuring safe food.
 - Ensuring compositional standards are met and that labels are accurate, including nutrition information and claims.
 - Prevent food fraud.
 - Ensuring workplaces are safe.
 - Investigating workplace accidents to prevent them recurring.
 - Work with the Adult Safeguarding Team to ensure the safety of elderly residents in care homes.

- Improving Customer Service
 - Expanding our customer satisfaction surveys to other areas of the service.
 - Review standard letters and notices to ensure they are written in plain English and can be produced quickly and efficiently.
 - Ongoing review of the procedures manual.

- Supporting Businesses
 - Providing advice to businesses.
 - Participation in the national FHRS scheme to promote business improvement.
 - Continuing to support the Metrocentre, through our joint aim of having all food businesses rated as 4 or 5.
 - Supporting the Rural Economic Strategy.
- Creating a High Quality and Sustainable Environment
 - Supporting businesses to improve their environment and going green.
- Maximising Efficiency and Value for Money
 - Examining alternative ways of working.
 - Carrying out more combined food and health and safety visits.
 - Being the eyes and ears for other teams during our visits and checking compliance with indicator items.
 - Ensuring our officers maintain and increase competence.
- A highly respected service which meets all service user needs ensuring they are well informed
 - Expand our use of customer satisfaction surveys.
 - Examine suggestions and respond to poor performance.
 - Ensure that all compliments and complaints are entered onto the corporate system.

TITLE OF REPORT: Responses to Consultation

REPORT OF: Sheena Ramsey, Chief Executive

Purpose of the Report

1. To endorse the responses to the following consultations:
 - 100% Business Rates Retention – Further consultation on the design of the reformed system – Department for Communities and Local Government – appendix 1
 - High Needs National Funding Formula Consultation – Department for Education (DfE) - appendix 2
 - Mainstream Schools Funding – DfE – appendix 3
 - Fixing our Broken Housing Market – DCLG - appendix 4
 - Planning and Affordable Housing for Build to Rent – DCLG - appendix 5

Background

2. The background to the consultations and responses are set out in appendices 1 to 5.

Proposal

3. To endorse the responses set out in appendices 1 to 5.

Recommendation

4. It is recommended that Cabinet endorses the consultation responses set out in appendices 1 to 5.

For the following reason:

To enable the Council to contribute responses to the consultation.

CONTACT: Kevin Ingledew extension: 2142

100% Business Rates Retention – Further consultation on the design of the reformed system

Policy Context

1. The proposal supports the vision for Gateshead as outlined in the Sustainable Communities Strategy, Vision 2030 and the Council Plan. In particular, it supports the priority to ensure a sustainable Gateshead by building capacity across the Council and ensuring the best use of resources.

Background

2. At the beginning of July 2016, the Government published a consultation entitled “Self-sufficient local government: 100% Business Rates Retention”. A report to Cabinet on 11 October 2016 outlined the Council’s response to this consultation. This report outlines a brief summary of the Government response to that consultation and then provides a further response to the next phase of consultation on the design of the reformed system.
3. The first stage consultation covered a number of broad areas relating to the retention of 100% of the business rates collected by local authorities. The themes covered were; issues connected with the devolution of responsibilities to local government to ensure fiscally neutrality, the design and operation of the new business rates retention system; the design and operation of new flexibilities over business rates tax; and, consequences of a reformed local government finance system, particularly in terms of accounting and accountability.
4. The Government have made a number of decisions following their response to the first stage of the consultation:
 - All councils will be invited to apply to participate in piloting aspects of 100% Business Rate Retention from April 2018. More information will be published about this process shortly.
 - Subject to Parliamentary approval, the Government aims to introduce the new system for the financial year 2019/20. Note that this timeframe currently overlaps the last year of the multi-year settlement offer.
 - The Government has now published and introduced into Parliament primary legislation which is intended to provide a framework for the reforms building on similar legislation which underpinned the current 50% rates retention system. The Bill provides for detailed aspects of the system to be set out in secondary legislation.
 - A response to the call for evidence on the Fair Funding Review will be published shortly.
 - The Government has confirmed that Revenue Support Grant, Rural Services Delivery Grant, the Public Health Grant and the Greater London Authority Transport Grant are to be funded through retained

business rates. The Government will further consider whether any transitional measures for devolving these grants are required.

Taken together, these announcements account for around half of the anticipated additional retained business rates quantum. The Government will continue to explore areas of remaining responsibilities identified in the first consultation and will consult further if necessary. The aim is to decide on a package of grants and responsibilities to be devolved in spring 2018 for potential implementation in April 2019.

- The Government has also confirmed that the devolution of Attendance Allowance funding is no longer being considered as part of the reforms.
- The Government has confirmed that the new burdens doctrine will continue post 2020.
- The Government will look to build fixed reset periods into the system. In addition, the Government will explore how a partial reset could help to establish a reasonable balance between rewarding growth and redistribution for changing need.
- The Government intends for redistribution of resources to continue through a system of tariffs and top-ups.
- The Government will continue to explore the options for local authorities to work together over a wider geographical area, with appropriate governance arrangements in place.
- Risks and volatility in relation to appeals have been recognised by the Government. The Bill introduces legislation that allows the Government to assist local authorities to manage the risk and income volatility associated with appeals. To do this, the Bill includes a provision for “loss payments” that will be funded through a top-slice and held and distributed centrally. Details about how loss payments are calculated and made will be set out in further proposals later in the year.
- The level of safety net that currently operates for the 50% business rates retention scheme is 92.5% of baseline funding levels. The 100% business rates retention pilots for 2017/18 will be trialling a safety net set at 97% of baseline funding.
- Ahead of the introduction of 100% Business Rates Retention, the Government intends to set out a clear statement of policy for which properties should be assessed to the central list.

5. The second phase of the consultation looks in more detail at:

- Partial resets
- Measuring growth
- Pooling and local growth zones
- Tier splits
- Safety Net
- Central list

6. The deadline for response to this second phase of consultation is 3 May 2017. The Council's proposed response is shown in the attached annex.

Consultation

7. The Council has been represented on the Association of North East Councils (ANEC) working group.

Alternative Options

8. There are no alternative options.

Implications of Recommended Option

9. Resources:

- a) **Financial Implications** - The Strategic Director, Corporate Resources confirms that any financial implications are subject to the outcome of the consultation and the call for evidence and will be the subject of future reports. The Council is clear that fairness in funding should be given precedence within the new framework and that "fair funding" must be reflective of need and be transparent.

- b) **Human Resources Implications** – None.

- c) **Property Implications** – None.

10. **Risk Management Implications** – Whilst the Government has outlined that the move to 100% business rates retention will be fiscally neutral on local government financing, there is a significant risk facing individual authorities in particular concerning the fairness of the needs assessment and the eventual baseline funding level at day one of the system.

11. **Equality and Diversity Implications** – None.

12. **Crime and Disorder Implications** - None.

13. **Health Implications** – None.

14. **Sustainability Implications** – None.

15. **Human Rights Implications** - None.

16. **Area and Ward Implications** – None.

17. **Background Information** – Government publications - Self-sufficient Local Government: 100% Business Rates Retention Consultation Document, Business Rates Reform Fair Funding Review: Call for evidence on Needs and Redistribution and 100% Business Rates Retention – Further consultation on the design of the reformed system.

Annex

100% Business Rates Retention – Further consultation on the design of the reformed system

The Council welcomes the opportunity to respond to the further consultation on 100% Business Rates Retention.

The retention of 100% business rates is an important step towards achieving fiscal devolution but it is essential that it be underpinned by a fair funding framework which takes into account local needs and demographics, recognising different areas capacity for growth and the ability to raise income locally. Poor economic performance is intrinsically linked with higher incidence of health and social issues that directly drive the demand for local authority services¹. From the outset of the new system, only genuine fair funding that meets the needs of the Borough of Gateshead and the wider region will enable the concept of fiscal devolution to succeed. The Fair Funding assessment will be the primary determinant of retained funding and the importance of the review should not, therefore, be underestimated.

Question 1: What are your views on the proposed approach to partial resets?

The approach of a partial reset is supported by the Council in principle, but with a number of caveats:

- Any approach should support and not hinder the effects of encouraging economic growth. The retained element needs to be sufficient to encourage growth and modelling will be needed to understand the impact on the Council, enabling a more informed response. As outlined in the Council's response to the previous consultation, resets need to include updates of needs and equalisation and should be aligned to revaluations.
- The proposed 100% BRR system is fundamentally flawed in that it rewards areas for economic growth regardless of their economic power, geographic and demographic situations. As a result, councils could be rewarded for growth where this is unrelated to their activities in more affluent areas and conversely, poorer areas may suffer unnecessarily despite delivering strong results due to factors outside their control. It is possible that this will result in a two-tier system where inequalities become further entrenched.
- Related to the point above, there is an implicit assumption that councils use the additional funding to support services. However councils will not be able to rely long-term on any funding streams associated with growth due to the reset mechanism. This could provide councils with very little opportunity or incentive for long-term planning.

¹ CIPFA Insights; developing local economies

- A system based on local economic factors has no link to changes in needs / statutory service provision. The danger is that funding becomes linked to national and international macro-economic conditions and as such becomes dislocated from need. There can be very significant changes in a 5-year period, in particular due to the current instabilities and uncertainties and the system will not be able to act responsively.
- The consultation documentation is unclear as to what happens following a reset to any additional business rates income generated in the 5-year period between resets:

Question 2: What are your views on how we should measure growth in business rates income over a reset period?

Any measurement of growth needs to be made against a fair baseline and needs to be simple and transparent. Although both are important it is clear that fairness in funding needs to take precedence over incentives.

The National Audit Office (NAO) report; Planning for 100% local retention of business rates raises (29 March 2017), outlined that the link between business rates and economic growth is not direct, raising the point that increases in tax base growth does not necessarily generate economic growth. This raises the issue of the definition of 'growth' before it can be determined and how it can be measured.

The report went on to outline that the Government has made no formal assessment of whether the current 50% scheme has promoted economic growth and assessing the growth impact will be complex because it is difficult to control for the impact of the growth incentive in the context of other factors acting on local authorities. These issues need to be clarified before growth can be incentivised as part of the proposed reset period under the 100% scheme.

The Government also needs to be careful that a reset does not remove the rewards from councils. A rolling 5-year reset would be more sensible, and would smooth the impact of economic shocks.

Question 3: What are your views on the Government's plans for pooling and local growth zones under the 100% Business Rates Retention system?

The Council does not agree with the ability of the Secretary of State to designate pools of authorities. Councils should not be put in a position where they may be forced into a pool at the command of the Secretary of State and it considers this ability to be against the spirit of localism. Councils should not be forced to compete against each other and the Government must acknowledge that it is not always possible for councils to work together in a complementary way. However, councils are generally keen to work together, and as such the Council welcomes the intention to explore additional rewards for pools of authorities.

Allowing councils to keep a proportion of business rates growth received from the locally established 'growth zone' area would be seen as beneficial but further information is needed on the parameters to be set by the Government.

Question 4: How can we best approach moving to a centrally managed appeals risk system?

The Council welcomes the new provision to provide for 'loss payments'. Aligning these payments to councils who have been subjected to 'valuation errors' will be seen as a step towards sharing risk on appeals, however, the definition of a 'valuation error' would need to be clearly defined.

A centralised appeals system is a sensible approach, but obviously the top-slice would need to be fairly apportioned. The top-slice will also need to be proportionate and returned to councils if not being fully utilised.

Question 5: What should our approach be to tier splits?

Not applicable

Question 6: What are your views on proposals for a future safety net under the 100% Business Rates Retention system?

The safety net system is intended to support councils 'that experience shocks to the system, such as the closure of a major ratepayer'. The current system is haemorrhaging income due to avoidance techniques and companies using insolvency to avoid payment of rate liabilities. Tackling some of these issues would further reduce need for safety net in some areas.

The safety net needs to incorporate an element of change in relative needs. Whilst it is designed to support councils that experience shocks to the system due to the closure of a major employer and the sudden loss of business rates income, it takes no account of the potential sudden increase in demand for council services from those residents who become unemployed.

Question 7: What are your views on our proposals for the central list?

A key issue regarding the central list is how baselines are to be set if the Government decides to move a major asset on to the central list; such councils must not be put at a disadvantage as a result. Additionally, councils should not benefit from national decisions e.g. a new airport or power station location – these should go on the central list and the benefits shared out to all (or perhaps to fund those councils requiring the safety net in the first instance). Any such increases in the list should be shared fairly based on an agreed approach. Any approaches to redistribution should be in line with the fair funding approach and based on a full needs assessment.

High Needs National Funding Formula Consultation**Policy Context**

1. This report supports the Council's aims as set out in the Council Plan and 'Vision 2030' of supporting fewer people with low level skills and more people with higher level skills through improved educational attainment and increased learning and development. The report also supports the Children Gateshead plan for children, young people and families.

Background

2. The government committed through the 2015 spending review the intention to introduce the first ever national funding formula for schools, early years and high needs to "match funding directly and transparently to need". Therefore the Department for Education (DfE) released a second stage consultation on 14th December 2016, setting out its proposals for the process of moving towards implementation of a national funding formula for high needs, inviting responses to the consultation to be submitted by 22nd March 2017.
3. This consultation is the second stage regarding the main principles of a national funding formula for High Needs, the response to which will form the basis of the National High Needs funding formula to be implemented from 2018/19.

The key updates and proposals within the consultation include:

- The DfE's response to the stage 1 consultation
 - The DfE's proposed values and weightings for the factors and adjustments in the high needs national funding formula. These details were described in detail in the January report.
 - The introduction of a funding floor, so that no Local Authority (LA) will face a reduction in high needs funding as a result of the formula
 - How the DfE propose to operate some limited local budget flexibility that enables LAs, through agreements to move some schools funding into the high needs budgets.
4. The consultation response deadline was 22nd March 2017 and the Council's response is attached.

Consultation

5. The Cabinet Members for Children and Young People have been consulted. The views of schools were conveyed through a separate submission by schools forum.

Alternative Options

6. The Council was not obliged to make a response, but to not do so would remove our ability to influence the future of High Needs Funding.

Implications of Recommended Option

7. Resources:

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that there are no specific financial implications as a result of this consultation response; however the proposed funding reforms may have financial implications depending on the outcome of the consultation.
- b) **Human Resources Implications** – The Strategic Director, Corporate Services and Governance confirms that there are no specific human resource implications identified as a result of this consultation, response however the proposed funding reforms may have human resource implications depending on the outcome of the consultation.
- c) **Property Implications** - The Strategic Director, Corporate Services and Governance confirms that there are no specific property implications as a result of this consultation response.

8. **Risk Management Implication** - None

9. **Equality and Diversity Implications** - None

10. **Crime and Disorder Implications** – None

11. **Health Implications** - None

12. **Sustainability Implications** - None

13. **Human Rights Implications** - None

14. **Area and Ward Implications** - None

1. In designing our national funding formula, we have taken careful steps to balance the principles of fairness and stability. Do you think we have struck the right balance?

Yes No

Please explain your reasoning and any further evidence we should take into account:

Basic entitlement should not be £4,000 per student when the national SBUF average for mainstream schools is £4,618 and Gateshead's SBUF is £4,570 in 2017/18. The basic entitlement for each authority should be the same as the SBUF for mainstream schools in that area. This would be the only way in which you could negate any perverse incentives to place or not place children with SEND in special schools

We are proposing a formula comprising a number of formula factors with different values and weightings.

We ask respondents to bear in mind with each question on this page that we are redistributing funding. Any money that we put into one factor will have to come from another factor. We have indicated what we think is the right proportion or amount for each factor.

2. Do you agree with the following proposals?

	Allocate a higher proportion	The proportion is about right	Allocate a lower proportion
Historic spend factor - To allocate to each local authority a sum equal to 50% of its planned spending baseline			

Please explain your reasoning and any further evidence we should take into account:

	Allocate a higher amount	This is about the right amount	Allocate a lower amount
Basic entitlement - To allocate to each local authority £4,000 per pupil			

Please explain your reasoning and any further evidence we should take into account:

As explained in answer to Q1, Basic entitlement should not be £4.000 per student when national average for mainstream schools is £4,618 and Gateshead's is £4,570 in 2017/18. The basic entitlement for each authority should be the same as the SBUF for mainstream schools in that area. This would be the only way in which you could negate any perverse incentives to place or not place children with SEND in special schools

3. We propose to use the following weightings for each of the formula factors listed below, adding up to 100%. Do you agree?

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Population – 50%

Please explain your reasoning and any further evidence we should take into account:

Population is not a direct indicator of the prevalence of SEND within an area. Of the indicators, health and disability is a better indicator of SEND, followed by deprivation therefore should have a greater % of weighting and population less

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Free school meals (FSM) eligibility – 10%

Please explain your reasoning and any further evidence we should take into account:

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Income deprivation affecting children index (IDACI) – 10%

Please explain your reasoning and any further evidence we should take into account:

Deprivation is a better indicator of SEND than population

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Key stage 2 low attainment – 7.5%

Please explain your reasoning and any further evidence we should take into account:

Using low attainment as a formula factor will disadvantage those higher performing authorities as they will receive less funding than comparatively underperforming authorities.

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Key stage 4 low attainment – 7.5%

Please explain your reasoning and any further evidence we should take into account:

Using low attainment as a formula factor will disadvantage those higher performing authorities as they will receive less funding than comparatively underperforming authorities.

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Children in bad health – 7.5%

Please explain your reasoning and any further evidence we should take into account:

Although Bad Health is not a fully reliable indicator of SEND prevalence, it is still a better indicator of SEND prevalence than population

Allocate a higher proportion

The proportion is about right

Allocate a lower proportion

Disability living allowance (DLA) – 7.5%

Please explain your reasoning and any further evidence we should take into account:

Although Levels of DLA is not a fully reliable indicator of SEND prevalence, it is still a better indicator of SEND prevalence than population

4. Do you agree with the principle of protecting local authorities from reductions in funding as a result of this formula? This is referred to as a funding floor in the consultation document.

Yes No

Please explain your reasoning and any further evidence we should take into account:

Higher funded authorities should not be cut to fund lower funded authorities, as the investment identified in the spending review over the period to 2020 is to bring those lower funded authorities in line with the average.

5. Do you support our proposal to set the funding floor such that no local authority will see a reduction in funding, compared to their spending baseline?

Yes No

Please explain your reasoning and any further evidence we should take into account:

Higher funded authorities should not be cut to fund lower funded authorities, as the investment identified in the spending review over the period to 2020 is to bring those lower funded authorities in line with the average.

6. Do you agree with our proposals to allow limited flexibility between schools and high needs budgets in 2018-19?

Yes No

Please explain your reasoning and any further evidence we should take into account:

There should be no restrictions on the amount of funding that can be transferred between the schools and high needs block in 2018/19, and it should be exempt from MFG if any transfers occur, as in reality there is no scope to move money between the blocks if local authorities are obliged to meet the minimum funding guarantee.

7. Do you have any suggestions about the level of flexibility we should allow between schools and high needs budgets in 2019-20 and beyond?

We are developing our proposals on the level of flexibility to allow in the longer term. We will consult fully on our proposals at a later stage, but would welcome any initial comments now.

There should be no restrictions on the amount of funding that can be transferred between the schools and high needs block in 2018/19, and it should be exempt from MFG if any transfers occur, as in reality there is no scope to move money between the blocks if local authorities are obliged to meet the minimum funding guarantee.

Mainstream Schools Funding Consultation**Policy Context**

1. This report supports the Council's aims as set out in the Council Plan and 'Vision 2030' of supporting fewer people with low level skills and more people with higher level skills through improved educational attainment and increased learning and development. The report also supports the Children Gateshead plan for children, young people and families.

Background

2. The government committed through the 2015 spending review the intention to introduce the first ever national funding formula for schools, early years and high needs to "match funding directly and transparently to need". Therefore the Department for Education (DfE) released a second stage consultation on 14th December 2016, setting out its proposals for the process of moving towards implementation of a national funding formula for mainstream schools, and the schools central block, inviting responses to the consultation to be submitted by 22 March 2017.
3. This consultation is the second stage regarding the main principles of a national funding formula for mainstream schools and the schools central block, the response to which will form the basis of the national funding formula (NFF) for mainstream schools and the central schools block to be implemented from 2018/19.

The key updates and proposals within the consultation include:

- The DfE's response to the stage 1 consultation
 - The DfE's overall approach to a NFF
 - The proposed detailed formula design
 - The implications for individual schools of the application of a NFF based on 2016/17 data
 - The timetable of implementation of the NFF for schools
 - The proposals for a central schools services block
4. The consultation response deadline was 22 March 2017 and the Council's response is attached.

Consultation

5. The Cabinet Members for Children and Young People have been consulted. The views of schools were conveyed through a separate submission by schools forum.

Alternative Options

6. The Council was not obliged to make a response, but to not do so would remove our ability to influence the future of High Needs Funding.

Implications of Recommended Option

7. Resources:

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that there are no specific financial implications as a result of this consultation response; however the proposed funding reforms may have financial implications depending on the outcome of the consultation.
- b) **Human Resources Implications** – The Strategic Director, Corporate Services and Governance confirms that there are no specific human resource implications identified as a result of this consultation, response however the proposed funding reforms may have human resource implications depending on the outcome of the consultation.
- c) **Property Implications** - The Strategic Director, Corporate Services and Governance confirms that there are no specific property implications as a result of this consultation response.

8. **Risk Management Implication** - None

9. **Equality and Diversity Implications** - None

10. **Crime and Disorder Implications** – None

11. **Health Implications** - None

12. **Sustainability Implications** - None

13. **Human Rights Implications** - None

14. **Area and Ward Implications** - None

Annex

1. In designing our national funding formula, we have taken careful steps to balance the principles of fairness and stability. Do you think we have struck the right balance?

Yes

No

Please explain your reasoning and any further evidence we should take into account:

Whilst we would agree that stability is good for schools, the documentation provided does not give a clear rationale for the use of the LA averages. Although individual school information has been provided, the information on the area cost adjustment has not been provided. We are also concerned about the reduction base rate on our primary schools as our primary schools with lower levels of deprivation all see a reduction in funding.

Another concern is the impact of flat cash since 2010/11 and the impact this is having on schools. This has been made worse by reductions in local authority funding for vulnerable children and will be further impacted due to the removal of the general element of the Education Services Grant from September 2017.

2. Do you support our proposal to set the primary to secondary ratio in line with the current national average?

We have decided that the secondary phase should be funded, overall, at a higher level than primary, after consulting on this in stage one. We are now consulting on how great the difference should be between the phases.

The current national average is 1:1.29, which means that secondary pupils are funded 29% higher overall than primary pupils.

Yes

No – the ratio should be closer (i.e. primary and secondary phases should be funded at more similar levels)

No – the ratio should be wider (i.e. the secondary phase should be funded more than 29% higher than the primary phase)

Please explain your reasoning and any further evidence we should take into account:

Whilst Gateshead's ratio is at 1:1.27 is not far from the average of 1:1.29, due to the large values in place, a 2% movement in favour to the secondary sector will have a significant effect on primary schools. In Gateshead we have on average smaller primary schools and fewer larger secondary schools which has an impact on the primary secondary ratio. This local organisation of schools is not taken into account using a national average. The primary secondary ratio does not take into account funding allocated via the MFG and this can be misleading, as the actual funding ratio can be much different after taking this funding into consideration.

3. Do you support our proposal to maximise pupil-led funding?

We are proposing to maximise the amount of funding allocated to factors that relate directly to pupils and their characteristics, compared to the factors that relate to schools' characteristics. We propose to do this by reducing the lump sum compared to the current national average (see question 7 on the lump sum value).

Yes

No - you should further increase pupil-led funding and further reduce school-led funding

No - you should keep the balance between pupil-led and school-led funding in line with the current national average

No - you should increase school-led funding compared to the current national average

Please explain your reasoning and any further evidence we should take into account:

As mentioned above, in Gateshead we have on average smaller primary schools, which impacts on the allocation of funding on school led factors. Without the capital to rebuild and amalgamate schools this pattern will not change significantly with the implementation of a national funding formula. Another consideration is that not all LAs have PFI schools, this is another school led cost that is not related to pupil numbers.

Rates are another school led factor that is outside the control of schools and the formula. The proposed changes in NNDR will have an impact on school led funding which again is not linked to pupil numbers and basing this on historic cost going forward is flawed. Another issue with NNDR is that Academies can claim to have their NNDR funded at actual cost via the DfE, but maintained schools do not have this option.

There should be local discretion on the primary secondary ratio within parameters so that the ratio can reflect the local area demographics and school organisation.

Pupil-led factors

We ask respondents to bear in mind with each question on this page that we are redistributing funding. Any money that we put into one factor will have to come from another factor. We have indicated what we think are the right proportions for each factor.

4. Within the total pupil-led funding, do you support our proposal to increase the proportion allocated to the additional needs factors?

Of the total schools block funding, 76% is currently allocated to basic per-pupil funding (AWPU) and 13% is allocated to the additional needs factors (deprivation, low prior attainment and English as an additional language).

The formula will recognise educational disadvantage in its widest sense, including those who are not eligible for the pupil premium but whose families may be only just about managing. It increases the total spent on additional needs factors compared to the funding explicitly directed through these factors in the current system.

We are therefore proposing to increase the proportion of the total schools block funding allocated to additional needs factors to 18%, with 73% allocated to basic per-pupil funding.

Yes

No – allocate a greater proportion to additional needs

No – allocate a lower proportion to additional needs

Please explain your reasoning and any further evidence we should take into account:

Gateshead's current formula is in line with national average. The removal of funding from the primary base rate into deprivation for Gateshead schools will have a detrimental impact on primary lesser deprived schools which are already facing financial issues due to flat cash since 2010/11 and very little deprivation funding. There also does not seem to be a rational for the increase in additional needs funding.

5. Do you agree with the proposed weightings for each of the additional needs factors?

Deprivation - pupil based at 5.5%

Deprivation - pupil based at 5.5% Allocate a higher proportion

Deprivation - pupil based at 5.5% The proportion is about right

Deprivation - pupil based at 5.5% Allocate a lower proportion

Please explain your reasoning and any further evidence we should take into account:

It is very difficult to express an opinion as the documentation does not present any evidence for the proportions proposed.

Deprivation - area based at 3.9%

Deprivation - area based at 3.9% Allocate a higher proportion

Deprivation - area based at 3.9% The proportion is about right

Deprivation - area based at 3.9% Allocate a lower proportion

Please explain your reasoning and any further evidence we should take into account:

It is very difficult to express an opinion as the documentation does not present any evidence for the proportions proposed.

Low prior attainment at 7.5%

Low prior attainment at 7.5% Allocate a higher proportion

Low prior attainment at 7.5% The proportion is about right

Low prior attainment at 7.5% Allocate a lower proportion

Please explain your reasoning and any further evidence we should take into account:

Again it is very difficult to express an opinion due to the lack of evidence in the documentation and the changing measures for prior attainment. Low prior attainment in the primary sector can also be subjective and therefore there can be a perverse incentive.

English as an additional language at 1.2%

English as an additional language at 1.2% Allocate a higher proportion

English as an additional language at 1.2% The proportion is about right

English as an additional language at 1.2% Allocate a lower proportion

Please explain your reasoning and any further evidence we should take into account:
We agree with the rationale to provide a higher value for secondary EAL pupils compared to primary, however it is very difficult again to express an opinion on the proportion of the total budget to allocate to EAL, especially in the light of the new data being collected on the level of English language proficiency.

The weightings are a proportion of the total schools budget.

6. Do you have any suggestions about potential indicators and data sources we could use to allocate mobility funding in 2019-20 and beyond?

We have decided to include a mobility factor in the national funding formula, following the first stage of consultation. This will be based on historic spend for 2018-19, while we develop a more sophisticated indicator. We would welcome any comments on potential indicators and data sources that could be a better way of allocating mobility funding in future.

Comments:

This factor is currently used in Gateshead and is significant for a number of primary schools due to the amount of social housing in the schools catchment area. This factor would be difficult to capture in a national formula as local knowledge can be crucial for one of instances of mobility due to housing demolition, localised flooding or refuge housing.

We ask respondents to bear in mind with each question on this page that we are redistributing funding. Any money that we put into one factor will have to come from another factor. We have indicated what we think are the right amounts for each factor.

7. Do you agree with the proposed lump sum amount of £110,000 for all schools?

This factor is intended to contribute to the costs that do not vary with pupil numbers, and to give schools (especially small schools) certainty that they will receive a certain amount each year in addition to their pupil-led funding.

Primary

Primary Allocate a higher amount

Primary This is about the right amount

Primary Allocate a lower amount

Allocate a higher amount

This is about the right amount

Allocate a lower amount

Secondary

Secondary Allocate a higher amount

Secondary This is about the right amount

Secondary Allocate a lower amount

Please explain your reasoning and any further evidence we should take into account:

The current allocations in Gateshead are £115,000 for primary schools and secondary schools £140,000. The more significant reduction in the secondary allocation should be offset by the increases in the basic entitlement even for our smaller secondary schools.

8. Do you agree with the proposed amounts for sparsity funding of up to £25,000 for primary and up to £65,000 for secondary, middle and all-through schools?

We have decided to include a sparsity factor to target extra funding for schools that are small and remote. We are proposing that this would be tapered so that smaller schools receive more funding, up to a maximum of £25,000 for primary schools and £65,000 for secondary schools.

Allocate a higher amount

This is about the right amount

Allocate a lower amount

Please explain your reasoning and any further evidence we should take into account:

Not currently part of our formula.

9. Do you agree that lagged pupil growth data would provide an effective basis for the growth factor in the longer term?

The growth factor will be based on local authorities' historic spend in 2018-19. For the longer term we intend to develop a more sophisticated measure and in the consultation we suggest the option of using lagged pupil growth data. We will consult on our proposals at a later stage, but would welcome any initial comments on this suggestion now.

Comments

Local flexibility is required to fund growth to ensure that the LA can meet its responsibilities for planning of school places. There can be instances where schools can de-stabilise the local area by taking too many pupils and making other local schools unviable, and other instances where schools are required to take a one of additional year group.

10. Do you agree with the principle of a funding floor?

To ensure stability we propose to put in place a floor that would protect schools from large overall reductions as a result of this formula. This would be in addition to the minimum funding guarantee (see question 13).

Yes

No

Please explain your reasoning and any further evidence we should take into account:

A floor is agreed with in principle to protect schools from sudden funding drops.

11. Do you support our proposal to set the funding floor at minus 3%?

This will mean that no school will lose more than 3% of their current per-pupil funding as a result of this formula.

Yes

No – the floor should be lower (i.e. allow losses of more than 3% per pupil)

No – the floor should be higher (i.e. restrict losses to less than 3% per pupil)

Please explain your reasoning and any further evidence we should take into account:

It is difficult to form an opinion as to the level of the floor as the rationale behind the proposed 3% is not known.

12. Do you agree that for new or growing schools (i.e. schools that are still filling up and do not have pupils in all year groups yet) the funding floor should be applied to the per-pupil funding they would have received if they were at full capacity?

Yes

No

We believe that, to treat growing schools fairly, the funding floor should take account of the fact that these schools have not yet filled all their year groups.

Please explain your reasoning and any further evidence we should take into account:

The funding for growing schools should take this into account.

13. Do you support our proposal to continue the minimum funding guarantee at minus 1.5%?

The minimum funding guarantee protects schools against reductions of more than a certain percentage per pupil each year. We are proposing to continue the minimum funding guarantee at minus 1.5% per pupil per year.

Yes

No – the minimum funding guarantee should be lower (i.e. allow losses of more than 1.5% per pupil in any year)

No – the minimum funding guarantee should be higher (i.e. restrict losses to less than 1.5% per pupil in any year)

Please explain your reasoning and any further evidence we should take into account:

This provides continuity for schools.

14. Are there further considerations we should be taking into account about the proposed schools national funding formula?

Comments:

We are concerned that the per pupil values will be set in the summer before the actual data sets based on the October census are known. Depending on the relative proportions of the primary and secondary sectors this could create funding pressures which will not allow the national factor values to be set at a local level.

15. Do you agree that we should allocate 10% of funding through a deprivation factor in the central school services block?

Yes

No - a higher proportion should be allocated to the deprivation factor

No - a lower proportion should be allocated to the deprivation factor

No - there should not be a deprivation factor

Please explain your reasoning and any further evidence we should take into account:

There is no link between the central block and deprivation.

16. Do you support our proposal to limit reductions on local authorities' central school services block funding to 2.5% per pupil in 2018-19 and in 2019-20?

Yes

No - allow losses of more than 2.5% per pupil per year

No - limit reductions to less than 2.5% per pupil per year

Please explain your reasoning and any further evidence we should take into account:

This should at least be in line with MFG, but it is also difficult to respond to this question without clarity around LA responsibilities.

17. Are there further considerations we should be taking into account about the proposed central school services block formula?

Comments:

Further consideration needs to be given to historic commitments especially premature retirement costs which only reduce with the reduction in beneficiaries.

‘Fixing our Broken Housing Market’ – Response of Gateshead Council to Consultation on the Housing White Paper

Policy Context

1. The government is consulting on its White Paper ‘*Fixing our Broken Housing Market*’. The White Paper is organised into four main chapters; “Planning for the right homes in the right places”, “Building homes faster”, “Diversifying the market”, and “Helping people now”. Each chapter includes a number of proposals for changes to national planning regulations and policy, as well as the wider housing market.

Planning for the right homes in the right places

2. The Government suggests that every area requires an up-to-date and effective development plan in order to ensure an effective delivery of housing. Consequently, the government will:
 - where necessary, intervene to ensure that a development plan is put in place;
 - make provision in the National Planning Policy Framework (NPPF) to ensure authorities are working constructively with neighbouring authorities to meet housing requirements that cut across local authority boundaries through a Statement of Common Ground;
 - consult on possible options for introducing a new standardised methodology for assessing housing need “at the earliest opportunity”;
 - expect that local and neighbourhood plans, and more detailed development plan documents (such as Area Action Plans), set out clear design expectations, following consultation with local communities;
 - require plans and individual development proposals to make best use of land and build homes at higher densities, especially in urban locations, and avoid lower densities in areas where there is a shortage of land;
 - take a flexible approach in adopting policy that could inhibit these objectives in particular circumstances; for example, avoiding a rigid application of open space standards if there is adequate provision in the wider area; and
 - review the Nationally Described Space Standard to ensure greater local housing choice is not inhibited.

Building homes faster

3. The Government intends to:
 - enable Local authorities to increase fees for planning applications by 20% from July 2017 if they commit to invest the additional fee income in their planning department. The Government is also considering a further 20%

increase in planning fees for authorities that are delivering the homes their communities need;

- provide £25million of new funding to help ambitious authorities in areas of high housing need to support planning and infrastructure plans;
- deter unnecessary appeals by consulting on introducing a fee for making a planning appeal; and
- the Government will prepare new guidance to local authorities following separate consultation on encouraging the proactive use of their compulsory purchase powers to support the build out of stalled sites.

Diversifying the market

4. The White Paper indicates that:

- the NPPF will be amended to request that local planning authorities have policies to support residential development on small and ‘windfall’ sites’ that were not currently allocated in plans;
- through changes to the NPPF, authorities should plan proactively for Build to Rent where there is a need, and to make it easier for Build to Rent developers to offer affordable private rental homes instead of other types of affordable housing;
- the Homes and Communities Agency will be relaunched as Homes England, with a purpose to ‘make a home within reach for everyone’; and
- the government will launch a rent policy for housing associations and local authority landlords to help them to borrow against future income.

Helping people now

5. It is proposed that:

- the NPPF will include a policy requirement that housing sites should deliver a minimum of 10% affordable ‘home ownership units’, on sites of 10 units or more, or over 0.5 ha;
- the new Community Housing Fund is being formed from additional receipts of the higher rates of Stamp Duty Land Tax. This will be used to support communities in taking the lead on the development of new build homes; and
- the Government will introduce guidance for local planning authorities on how local development documents should meet the housing needs of older and disabled people, including helping people who need supported housing and developing a workable approach to funding supported housing in the future

Gateshead Response

6. There are 38 questions in total addressing the proposed reforms. Gateshead’s response to the consultation is set out in the attached annex and includes responses from Spatial Planning, Environment and Housing Growth officers, in

consultation with the Development Management team and Gateshead Housing Company.

7. This follows a number of consultations and reviews carried out over the last year, including proposed changes to the National Planning Policy Framework (NPPF), the report of the Local Plans Expert Group and the Rural Planning Review call for evidence.
8. The outcome of this consultation will inform a revised version of the NPPF which is expected to be published in summer 2017. It is also expected that there will be amendments to wider planning regulations and guidance in relation to sustainable development and the environment. However it is not thought likely that there will be new primary legislation arising directly from the White Paper.

Implications of Recommended Option

9. Resources:

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that there are no financial implications arising from this consultation.
 - b) **Human Resources Implications** – No human resources implications.
 - c) **Property Implications** – No property implications.
- 11) **Risk Management Implication** – No risks associated with the consultation.
 - 12) **Equality and Diversity Implications** – Measures to meet the housing needs of older and disabled people, including helping people who need supported housing and developing a workable approach to funding supported housing.
 - 13) **Crime and Disorder Implications** – No crime implications.
 - 14) **Health Implications** – No health implications.
 - 15) **Sustainability Implications** – The measures outlined are aimed at delivering more homes more quickly which will assist in meeting housing needs in Gateshead.
 - 16) **Human Rights Implications** - No human rights implications.
 - 17) **Area and Ward Implications** – The implementation of the proposals that are consulted on in the White Paper could have implications for the next stage of the Gateshead Local Plan, in particular the method used for calculating the objectively assessed housing need for Gateshead. Officers will consider evidence around the possible implications of the implementation of the

proposals in the White Paper, and ensure that the Gateshead Local Plan continues to comply with national planning policy.

Annex

Housing White Paper GATESHEAD COUNCIL RESPONSE	
1	<p>Do you agree with the proposals to:</p> <p>a) Make clear in the National Planning Policy Framework that the key strategic policies that each local planning authority should maintain are those set out currently at paragraph 156 of the Framework, with an additional requirement to plan for the allocations needed to deliver the area's housing requirement?</p>
	<p><i>a) Paragraph 156 states: Local planning authorities should set out the strategic priorities for the area in the Local Plan. This should include strategic policies to deliver:</i></p> <ul style="list-style-type: none"> - <i>the homes and jobs needed in the area</i> - <i>the provision of retail, leisure and other commercial development</i> - <i>the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat)</i> - <i>the provision of health, security, community and cultural infrastructure and other local facilities</i> - <i>climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape</i> <p><i>The Council supports this proposal</i></p>
	<p>b) Use regulations to allow Spatial Development Strategies to allocate strategic sites, where these strategies require unanimous agreement of the members of the combined authority?</p>
	<p><i>b) The Council has some concerns regarding the proposal as outlined due to a lack of clarity:</i></p> <ul style="list-style-type: none"> - <i>on the extent to which such strategies/ allocations would be consulted on, supported by evidence and scrutinised through examination.</i> - <i>on the relationships between such allocations and an individual authority's Local Plan, and concern that such an allocation would be premature to Local Plan consultation and examination processes</i>
	<p>c) Revise the National Planning Policy Framework to tighten the definition of what evidence is required to support a 'sound' plan?</p>
	<p><i>c) The Council supports the proposal to tighten the definition of what evidence is required to support a "sound" plan. Proposals for a more proportionate approach on such matters will ensure that scarce Council resources are used effectively. The Council also supports the proposal whereby the Council should demonstrate an appropriate strategy for the area, rather than the most appropriate, thereby negating the need to undertake potentially superfluous work to demonstrate consideration of alternative strategies where realistic alternatives are limited or non-existent.</i></p>
2	<p>What changes do you think would support more proportionate consultation and examination procedures for different types of plan and to ensure that different levels of plans work together?</p>
	<p><i>The Council would support proposals to streamline consultation and examination procedures to ensure that they are more proportionate and allow for more timely plan preparation. In particular proposals to negate the need to consider alternative strategies</i></p>

	<i>are welcomed, and the LPEG group proposal to simplify the approach to sustainability appraisal would also be welcomed.</i>
3	<p>Do you agree with the proposals to:</p> <p>a) amend national policy so that local planning authorities are expected to have clear policies for addressing the housing requirements of groups with particular needs, such as older and disabled people?</p> <p>b) from early 2018, use a standardised approach to assessing housing requirements as the baseline for five year housing supply calculations and monitoring housing delivery, in the absence of an up-to-date plan?</p>
	<p><i>a) Yes, provided Local Authorities are supported to develop policy targets that reflect local circumstances and need, rather than targets being imposed centrally. The Government need to help LAs overcome the market's reluctance to embrace this agenda. There will also be pressure on viability, if specific policy expectations are established e.g. bungalows which may deter development. There will be pressure from developers on Local Authorities to pick from a list of requirements including affordability and space standards e. t.c</i></p> <p><i>b) Agree in principle with the standardised approach but need clarity on any transitional arrangements for those authorities which have an up-to-date adopted Local Plan Document setting out a housing requirement, if this housing requirement differs from the new methodology. Also need clarity regarding how the new Housing Delivery Test will operate alongside the requirement for a five-year housing land supply.</i></p>
4	<p>Do you agree with the proposals to amend the presumption in favour of sustainable development so that:</p> <p>a) authorities are expected to have a clear strategy for maximising the use of suitable land in their areas?;</p> <p>b) it makes clear that identified development needs should be accommodated unless there are strong reasons for not doing so set out in the NPPF?;</p> <p>c) the list of policies which the Government regards as providing reasons to restrict development is limited to those set out currently in footnote 9 of the National Planning Policy Framework (so these are no longer presented as examples), with the addition of Ancient Woodland and aged or veteran trees?</p> <p>d) its considerations are re-ordered and numbered, the opening text is simplified and specific references to local plans are removed?</p>
	<p><i>a) Yes</i></p> <p><i>b) Yes</i></p> <p><i>c) No. The list is not comprehensive with regard to natural environment designations, and not sufficiently specific with regard to "designated heritage assets". Most importantly, the list makes no allowance for local identification of public open space and recreational assets including but not limited to those of tourism value, other than those covered by Local Green Space which requires a specific designation process. This would override evidence-based local policies to protect open space and sports facilities.</i></p> <p><i>d) Yes</i></p>
5	Do you agree that regulations should be amended so that all local planning authorities are able to

	dispose of land with the benefit of planning consent which they have granted to themselves?
	<i>Gateshead is a unitary authority, so this change to disposal is in part not an issue. The General Disposal Consent should be welcome, however, it is important that this does not further reduce local authorities ability to invest in their areas, by an expectation of forfeiting capital receipts, whilst allowing private landowners to maximise land values. Central Government's needs to support local authorities in the development of less viable sites in weaker housing market areas.</i>
6	How could land pooling make a more effective contribution to assembling land, and what additional powers or capacity would allow local authorities to play a more active role in land assembly (such as where 'ransom strips' delay or prevent development)?
	<i>Land pooling: This would be reliant on genuine, open book transparency, perhaps with independent scrutiny – LAs require capacity to do this. Additional powers: A simpler CPO process that encourages and supports local authorities to proceed with CPO at the early stages of regeneration activity. Timely funding to build capacity to deliver on this very resource intensive process</i>
7	Do you agree that national policy should be amended to encourage local planning authorities to consider the social and economic benefits of estate regeneration when preparing their plans and in decisions on applications, and use their planning powers to help deliver estate regeneration to a high standard?
	<i>Estate regeneration forms a key part of economic growth so it is imperative that Local plans have the flexibility and ability to reflect regeneration objectives, particularly in areas of market failure and low demand where significant demolition may be required in advance of new housing development. As a result of ongoing efforts to address the imbalances in Gateshead's housing stock (supported by previous government programmes of Housing Market Renewal), in addition to the specific market circumstances prevalent in urban areas in the north East of England, Gateshead has had relatively high levels of demolition in recent years, and this programme of demolition is likely to continue in the near future. The Council is also working actively with private landlords and property owners to bring empty homes back into use. Gateshead Council supports the HWP's recognition of the importance of estate regeneration, and a focus on net dwelling completions appears appropriate when considering housing delivery. However, the focus of meeting the needs of new households should consider not only (net) new homes delivered, but should also have regard for empty homes brought back into use. Local Authorities which make a commitment to reducing the number of empty homes in their area (where the proportion of empty homes can be demonstrated to be too high) should be supported by the Government, and PPG should specify that bringing empty homes back into use should be regarded as a potential (albeit limited) source of housing supply. To be consistent with the principles of estate regeneration, the calculation of housing supply (for the purpose of establishing 5-year housing land supply) and delivery (for the purpose of the new housing delivery test) should contain a mechanism which allows the contribution that bringing empty homes back into use makes to the availability of homes for newly forming households.</i>
8	Do you agree with the proposals to amend the National Planning Policy Framework to:

	<p>a) highlight the opportunities that neighbourhood plans present for identifying and allocating small sites that are suitable for housing?;</p> <p>b) encourage local planning authorities to identify opportunities for villages to thrive, especially where this would support services and help meet the authority’s housing needs?;</p> <p>c) give stronger support for ‘rural exception’ sites – to make clear that these should be considered positively where they can contribute to meeting identified local housing needs, even if this relies on an element of general market housing to ensure that homes are genuinely affordable for local people?;</p> <p>d) make clear that on top of the allowance made for windfall sites, at least 10% of sites allocated for residential development in local plans should be sites of half a hectare or less?;</p> <p>e) expect local planning authorities to work with developers to encourage the sub-division of large sites?; and</p> <p>f) encourage greater use of Local Development Orders and area-wide design codes so that small sites may be brought forward for development more quickly?</p>
	<p><i>a) The Council agrees</i></p> <p><i>b) LPAs already do this as part of their Local Plan spatial strategy</i></p> <p><i>c) The support for such sites needs to be supported by robust evidence i.e. needs assessments for specific rural catchments but it must also reflect the spatial development strategy in the Local Plan.</i></p> <p><i>d) In principle, a coordinated approach which supports the diversification of the development industry would be supported.</i></p> <p><i>e) In a time of scarce resources among Local Authority planning departments, it is unclear how this expectation would be implemented in practice.</i></p> <p><i>f) Agree but this may take away from the role of Neighbourhood Plans if they are active within the area.</i></p>
9	<p>How could streamlined planning procedures support innovation and high-quality development in new garden towns and villages?</p>
	<p><i>The Government seems to be moving towards ‘approval in advance’ when it talks of streamlining (e.g. PiPs and Pink Zones). In order for streamlining to deliver better design this needs to be fashioned in a way that frees up more time (and money) for the Local Authority to provide clear and detailed design guidance (design framework or code) for developers to follow. The more material weight given to this guidance the better (this process in itself needs streamlining/expediting). Alternatively, this could be overarching national guidance or legislation that provides strong support for locally produced guidance. The guidance will need to provide a clear set of design parameters or principles and design standards that must be adhered to as residential schemes are detailed up and delivered on site. (This should not be restricted to new garden towns and villages as worded in Q9 but should apply to all new residential development).</i></p>
10	<p>Do you agree with the proposals to amend the National Planning Policy Framework to make clear that:</p> <p>a) authorities should amend Green Belt boundaries only when they can demonstrate that they have examined fully all other reasonable options for meeting their identified development requirements?</p>

	<p>b) where land is removed from the Green Belt, local policies should require compensatory improvements to the environmental quality or accessibility of remaining Green Belt land?</p> <p>c) appropriate facilities for existing cemeteries should not to be regarded as ‘inappropriate development’ in the Green Belt?</p> <p>d) development brought forward under a Neighbourhood Development Order should not be regarded as inappropriate in the Green Belt, provided it preserves openness and does not conflict with the purposes of the Green Belt?</p> <p>e) where a local or strategic plan has demonstrated the need for Green Belt boundaries to be amended, the detailed boundary may be determined through a neighbourhood plan (or plans) for the area in question?</p> <p>f) when carrying out a Green Belt review, local planning authorities should look first at using any Green Belt land which has been previously developed and/or which surrounds transport hubs?</p>
	<p><i>a) Yes, though the reference to optimising the density of development should not lead to a situation where local authorities are required to insist on very dense/high-rise development where it is not in keeping with local character, residential amenity or the capacity of infrastructure and services.</i></p> <p><i>b) No. This could be difficult or impossible to achieve owing to fragmented landownership, and seeking to establish whether it is possible could delay the removal of land from the Green Belt and therefore the adoption of Plans necessary to meet needs.</i></p> <p><i>c) The Council agrees</i></p> <p><i>d) The Council agrees</i></p> <p><i>e) Disagree this could potentially lead to all relevant NPs wanting to amend their Green Belt boundary. To ensure consistency this should be done at the higher Local Plan level in line with any Green Belt deletions and wider Green belt Review study. The level of scrutiny of Local Plans compared to NPs at examination is also not consistent.</i></p> <p><i>f) Yes, provided there is a recognition that Green Belt brownfield sites may be inappropriate for development if they are in unsustainable locations.</i></p>
11	<p>Are there particular options for accommodating development that national policy should expect authorities to have explored fully before Green Belt boundaries are amended, in addition to the ones set out above?</p>
	<p><i>No</i></p>
12	<p>Do you agree with the proposals to amend the National Planning Policy Framework to:</p> <p>a) indicate that local planning authorities should provide neighbourhood planning groups with a housing requirement figure, where this is sought?;</p> <p>b) make clear that local and neighbourhood plans (at the most appropriate level) and more detailed development plan documents (such as action area plans) are expected to set out clear design expectations; and that visual tools such as design codes can help provide a clear basis for making decisions on development proposals?;</p> <p>c) emphasise the importance of early pre-application discussions between applicants, authorities and the local community about design and the types of homes to be provided?;</p> <p>d) makes clear that design should not be used as a valid reason to object to development where it accords with clear design expectations set out in statutory plans?; and</p>

	<p>e) recognise the value of using a widely accepted design standard, such as Building for Life, in shaping and assessing basic design principles – and make clear that this should be reflected in plans and given weight in the planning process?</p>
	<p><i>a) The Council supports proposals to simplify the housing requirement figure for NPs. This would help speed up the NP process. Further to this it would depend on whether this is a minimum, maximum, a range or simply a guide.</i></p> <p><i>b) The Council strongly supports this proposal to ensure design quality whilst such expectations would need to match general guidance and policy and be ‘properly done’ including illustrations etc. Such documents need to be clear and appropriately detailed, whilst the adoption process for these types of documents is too protracted and needs to be much quicker so that LA’s can react/respond appropriately. LA resources/funding would be an issue.</i></p> <p><i>c) NPPF should emphasise the importance of pre app discussions on any application but particularly those for new housing – but for all aspects of the scheme not just design and types of housing.</i></p> <p><i>d) Design is subjective and very difficult to set out in local policy but the Council broadly agrees.</i></p> <p><i>e) It would be useful to have criteria for design assessments which would result in higher quality development. The BFL standard is rarely achieved – particularly in the current economic climate. It would be helpful if there was funding/training available for internal assessors for each authority or for a group of authorities, otherwise it is open to interpretation and potentially expensive for an LA (if on own schemes).</i></p>
13	<p>Do you agree with the proposals to amend national policy to make clear that plans and individual development proposals should:</p> <p>a) make efficient use of land and avoid building homes at low densities where there is a shortage of land for meeting identified housing needs?;</p> <p>b) address the particular scope for higher-density housing in urban locations that are well served by public transport, that provide opportunities to replace low-density uses in areas of high housing demand, or which offer scope to extend buildings upwards in urban areas?;</p> <p>c) ensure that in doing so the density and form of development reflect the character, accessibility and infrastructure capacity of an area, and the nature of local housing needs?;</p> <p>d) take a flexible approach in adopting and applying policy and guidance that could inhibit these objectives in particular circumstances, such as open space provision in areas with good access to facilities nearby?</p>
	<p><i>a) Yes provided plans and development proposals can take account of considerations regarding the historic built environment, local character and amenity - this includes density, in relation to urban grain and established settlement pattern.</i></p> <p><i>So proposals should be contextually appropriate. In rural less built-up areas densities should be limited otherwise risks undermining the character and desirability of an area. New development must not be harmful to local character.</i></p> <p><i>On the other hand this could be useful guidance helping us to refuse permission where we believe a site could deliver more housing.</i></p> <p><i>b) Yes but there should not be a formulaic approach requiring specific densities in specific types of location, as this would (a) run into definition issues and (b) have insufficient</i></p>

	<p><i>regard to local authorities' role in place-making, sensitive to the needs and character of particular locations.</i></p> <p><i>The expectation should be that this would not negatively affect the urban landscape, whilst a positive approach is needed to appropriate transport requirements i.e. a flexible approach to parking standards or other, and if not meeting parking standards – guidance needs to be clear on alternative/enhanced contributions development will make towards public transport and/or highway network if/where needed.</i></p> <p><i>c) Yes see answer to (b) above - it should not just be that development will 'reflect' local character – alternatively it could 'enhance' local character.</i></p> <p><i>d) It is not very clear what this question means, but any flexibility in policies should be explicit in those policies for clarity and to ensure proper testing at the time of plan-making, not applied retrospectively. Flexibility in applying parking standards in such circumstances should be considered.</i></p>
14	<p>In what types of location would indicative minimum density standards be helpful, and what should those standards be?</p> <p><i>The Council does not believe that it would be helpful to indicate specific minimum density standards either in general or for particular types of location, as the densities necessary to meet needs vary very greatly between different local authority areas and regions. Councils should be required to show through the examination of their planning policies that any proposed density policies are consistent with the delivery of sufficient housing to meet their needs.</i></p> <ul style="list-style-type: none"> <i>- this is not a major issue in Gateshead due to viability</i> <i>- Standards may require an audit by the LA to determine the impact on the urban landscape and what would be appropriate i.e. flats etc, but this will also likely require a maximum element in terms of storey height etc..</i> <i>- Density must be considered alongside built form (building typology), layout and what is contextually appropriate in terms of reflecting or enhancing character - it cannot be determined in isolation otherwise it runs the risk of incorrectly predetermining one of the other factors and result in an inappropriate design solution.</i>
15	<p>What are your views on the potential for delivering additional homes through more intensive use of existing public sector sites, or in urban locations more generally, and how this can best be supported through planning (using tools such as policy, local development orders, and permitted development rights)?</p> <p><i>There is limited capacity within many such existing sites e.g. schools and hospitals and much of it is likely to be needed in reserve for expansion of service delivery. This Council, like others, is very well aware of the need to consider the best use of its own and other public sector land. Therefore, whilst the Council is supportive of the aim of this approach, we do not believe any specific measures are necessary or would be helpful, beyond those available at present.</i></p> <p><i>The Council would request additional Central Government funding to remove barriers to the development of Brownfield Land, contamination for example, and/or means by which to "move on" or to deal with otherwise potentially prohibitive ecological issues. Stronger mitigation measures that make brownfield land more appealing.</i></p>

	<p><i>Unfortunately it comes down to viability and abnormal costs (flood mitigation, contamination etc.) associated with brownfield sites and neither developers or LA's have the funding to 'plug the gap' to make high quality schemes viable/deliverable. Also, many brownfield sites can provide varying degrees of ecological value and to develop these creates issues of conflict with NPPF and ecology policy!? The government needs to resolve these conflicts to enable development and 'remove' abnormal costs from the equation.</i></p>
16	<p>Do you agree that:</p> <p>a) where local planning authorities wish to agree their housing land supply for a one-year period, national policy should require those authorities to maintain a 10% buffer on their 5 year housing land supply?;</p> <p>b) the Planning Inspectorate should consider and agree an authority's assessment of its housing supply for the purpose of this policy?</p> <p>c) if so, should the Inspectorate's consideration focus on whether the approach pursued by the authority in establishing the land supply position is robust, or should the Inspectorate make an assessment of the supply figure?</p>
	<p><i>a) The Council has no strong views on this but is unclear on the justification for the proposed 10% buffer</i></p> <p><i>b) Anything that involves annual reference to the Planning Inspectorate will inevitably increase complexity and delay.</i></p> <p><i>c) The response in (B) will be even more applicable if the Inspectorate is to examine the validity of the supply figure, site by site. Given our understanding of current resources at PINs, the potential additional burden of assessing each LA's 5-year housing supply in a robust manner each year would place a considerable additional requirement onto the Inspectorate. The introduction by CLG of an additional policy requirement, not supported by increased resources to implement the requirement could lead to increased uncertainty and delays, having a counter-productive effect for the delivery of new housing.</i></p>
17	<p>In taking forward the protection for neighbourhood plans as set out in the Written Ministerial Statement of 12 December 2016 into the revised NPPF, do you agree that it should include the following amendments:</p> <p>a) a requirement for the neighbourhood plan to meet its share of local housing need?;</p> <p>b) that it is subject to the local planning authority being able to demonstrate through the housing delivery test that, from 2020, delivery has been over 65% (25% in 2018; 45% in 2019) for the wider authority area?</p> <p>c) should it remain a requirement to have site allocations in the plan or should the protection apply as long as housing supply policies will meet their share of local housing need?</p>
	<p><i>a) Agree this needs to be more clearly set out as to prevent NPs being set up to restrict development. Would be useful for clarity on what "it's share" means i.e. for the NP area or a wider catchment.</i></p> <p><i>b) Agree but relates to previous comments in Q7 about tackling estate regeneration e.g. large-scale demolition and the impact on net housing delivery, how will this be factored in.</i></p> <p><i>c) As long as there are policies facilitating development that should suffice. There may not</i></p>

	<i>be any sites at present to allocate and future sites may be windfall development.</i>
18	<p>What are your views on the merits of introducing a fee for making a planning appeal? We would welcome views on:</p> <p>a) how the fee could be designed in such a way that it did not discourage developers, particularly smaller and medium sized firms, from bringing forward legitimate appeals;</p> <p>b) the level of the fee and whether it could be refunded in certain circumstances, such as when an appeal is successful; and</p> <p>c) whether there could be lower fees for less complex cases.</p>
	<p><i>No merit - costs claim is sufficient to allow LPAs to regain costs of unnecessary appeals.</i></p> <p><i>Fees should be payable to both the LPA and PINS for the cost of the processing of the appeal – including additional consultations etc. which can be significant on larger schemes.</i></p> <p><i>a) Proportionate fees based on the scale of the development and the number of reasons for refusal considered would allow SME's to bring forward legitimate appeals.</i></p> <p><i>b) Do not agree that fee would be refunded as cost of processing would be incurred whether appeal is successful or not. Current system of applicants costs sufficient to reimburse where unsubstantiated refusals are made.</i></p> <p><i>c) See response to a)</i></p>
19	<p>Do you agree with the proposal to amend national policy so that local planning authorities are expected to have planning policies setting out how high quality digital infrastructure will be delivered in their area, and accessible from a range of providers?</p>
	<p><i>Allocations for new development are not currently dependent on the provision of digital infrastructure to the same extent as other types of infrastructure, such as roads and schools, for example. However, the Council recognises the value in encouraging maximum coverage to enable digital access, particularly for residents and businesses in more remote areas. An effective approach would rely on operators sharing networks and engaging with local authorities in how an expanded network will be rolled out.</i></p>
20	<p>Do you agree with the proposals to amend national policy so that:</p> <ul style="list-style-type: none"> - the status of endorsed recommendations of the National Infrastructure Commission is made clear?; and - authorities are expected to identify the additional development opportunities which strategic infrastructure improvements offer for making additional land available for housing?
	<p><i>Gateshead Council would support the proposal to clarify the status of endorsed recommendations of the National Infrastructure Commission</i></p> <p><i>Gateshead Council supports that principle of authorities having to identify additional development opportunities arising from strategic infrastructure improvements – it should be made clear though that depending on the status of the land in question the most appropriate means of doing this might be through the preparation or a review of the Local Plan.</i></p>
21	<p>Do you agree that:</p>

	<p>a) the planning application form should be amended to include a request for the estimated start date and build out rate for proposals for housing?</p> <p>b) that developers should be required to provide local authorities with basic information (in terms of actual and projected build out) on progress in delivering the permitted number of homes, after planning permission has been granted?</p> <p>c) the basic information (above) should be published as part of Authority Monitoring Reports?</p> <p>d) that large housebuilders should be required to provide aggregate information on build out rates?</p>
	<p><i>a) The Council considers that it would be useful to have estimated start dates and build out rates included in the application form, however, it is likely that either a developer won't know or will make up a date particularly if they are not bound by it. Would there be scope for invalidating or refusing an application if this information is not provided or if build out rates are considered to be too low?</i></p> <p><i>The Council regularly receives applications submitted as a valuation exercise where the land is then sold onto a developer. There would be a lack of knowledge of how and when development would be delivered in such cases.</i></p> <p><i>Could this be part of the PPA where required on certain applications?</i></p> <p><i>b) The Council would query whether this would be addressed through conditions and whether such an approach would be enforceable – we couldn't enforce if build out rates are not as reported/indicated.</i></p> <p><i>Councils would require the NPPF to set out the requirement to do this or be part of a statutory register outside of the planning process. Resources would be required for monitoring and enforcing these - how would LPAs intervene if projected targets are not being achieved.</i></p> <p><i>c) The Council considers that it could be useful to include this information within annual monitoring reports to check against delivery - however, this would be reliant on the accuracy of the information submitted by developers, and would be an additional resource requirement on LPAs.</i></p> <p><i>d) The Council would request clarity on whether this would be by LPA area or country wide?</i></p>
22	<p>Do you agree that the realistic prospect that housing will be built on a site should be taken into account in the determination of planning applications for housing on sites where there is evidence of non-implementation of earlier permissions for housing development?</p>
	<p><i>How to justify – if used as a reason for refusal would need clear guidance in NPPF about what factors would be considered. Regularly get applications submitted as a valuation exercise where the land is then sold onto a developer. Would not have any knowledge of how and when development would be delivered in these cases.</i></p>

	<p><i>A statement explaining why previous permissions have not been delivered could be a useful material consideration for a difficult site.</i></p> <p><i>Viability assessments submitted with applications regularly show that sites are not viable and cannot support contributions such as affordable housing. As such they would also fail to meet any deliverability tests.</i></p>
23	<p>We would welcome views on whether an applicant’s track record of delivering previous, similar housing schemes should be taken into account by local authorities when determining planning applications for housing development.</p>
	<p><i>Again how to justify – if used as a reason for refusal Councils would need clear guidance in the NPPF about what factors would be considered. The Council regularly receives applications submitted as a valuation exercise where the land is then sold onto a developer. We would not have any knowledge of how and when development would be delivered in these cases.</i></p> <p><i>There is a concern that the ability to use deliverability could result in spurious reasons/justification for a refusal. Any previous inability to deliver, such as enforcement issues, would go against the new application. Developers would be able to get around this by setting up separate companies through which to apply.</i></p> <p><i>It would be detrimental to developers with no experience of development in the area as would not be able to demonstrate ability to deliver housing. It would lead to an additional resource burden to check the evidence of delivery if from outside the LPA area.</i></p> <p><i>This goes against principle that planning permission goes with land.</i></p>
24	<p>If this proposal were taken forward, do you agree that the track record of an applicant should only be taken into account when considering proposals for large scale sites, so as not to deter new entrants to the market?</p>
	<p><i>See response to question 23</i></p>
25	<p>What are your views on whether local authorities should be encouraged to shorten the timescales for developers to implement a permission for housing development from three years to two years, except where a shorter timescale could hinder the viability or deliverability of a scheme? We would particularly welcome views on what such a change would mean for SME developers.</p>
	<p><i>This is not considered necessary. Due to the viability of sites, often don’t consider details until discharge of conditions stage of application as costly to prepare and developers won’t fund until certainty of gaining planning permission achieved. This stage often takes some time to complete.</i></p> <p><i>No evidence that developers are delaying commencement to later in the three year period deliberately.</i></p> <p><i>Developers wait for the Judicial Review period before getting on site so this would lessen the implementation time further.</i></p>
26	<p>Do you agree with the proposals to amend legislation to simplify and speed up the process of serving a completion notice by removing the requirement for the Secretary of State to confirm a completion notice before it can take effect?</p>

	<p><i>Yes if there is clear criteria for when process is appropriate. Have never used this in Gateshead.</i></p>
27	<p>What are your views on whether we should allow local authorities to serve a completion notice on a site before the commencement deadline has elapsed, but only where works have begun? What impact do you think this will have on lenders' willingness to lend to developers?</p>
	<p><i>This would be catastrophic in Gateshead where lending is a significant issue presently. Smaller developers find it difficult to secure funding and any risk that the costs would escalate as a result that the LPA could serve a completion notice.</i></p> <p><i>If this is linked to the build out rates submitted with the application as per question 21 developers would just build in some contingency.</i></p>
28	<p>Do you agree that for the purposes of introducing a housing delivery test, national guidance should make clear that:</p> <p>a) The baseline for assessing housing delivery should be a local planning authority's annual housing requirement where this is set out in an up-to-date plan?</p> <p>b) The baseline where no local plan is in place should be the published household projections until 2018/19, with the new standard methodology for assessing housing requirements providing the baseline thereafter?</p> <p>c) Net annual housing additions should be used to measure housing delivery?</p> <p>d) Delivery will be assessed over a rolling three year period, starting with 2014/15 – 2016/17?</p>
	<p><i>a) Yes – post NPPF adopted plan</i></p> <p><i>b) Happy for a standardised methodology if there is no up to date Local Plan in place.</i></p> <p><i>c) No the Council does not agree based on comments in Q7 linked to estate regeneration and demolition plans – make low demand housing market areas more likely to under deliver.</i></p> <p><i>d) Where there is a post-NPPF plan in place, the assessment should be over the Plan period to date, as otherwise previous over-delivery would not be able to be taken into account – it may be that sites have come forward earlier than anticipated, and this should not be discounted.</i></p> <p><i>The Government needs to carefully consider the appropriateness of data sources for monitoring housing delivery to be used in the new HDT. Current CLG records of net housing delivery are published in live table 122. However, these data result from HFR returns, which may not always tally with an LPA's published AMR (because of different timescales involved in their preparation, and due to the different definition of dwelling stock applied in the HFR [includes communal accommodation]). In addition, CLG will revise their estimate of net dwelling provision to reflect the count of dwelling stock provided in the Census, accounting for discrepancies by applying a simple pro-rata adjustment to each of the ten years between Census. The current approach may be appropriate for measuring dwelling additions at the national level, but seems to not be fit for the requirements the new HDT will introduce.</i></p>
29	<p>Do you agree that the consequences for under-delivery should be:</p> <p>a) From November 2017, an expectation that local planning authorities prepare an action plan where delivery falls below 95% of the authority's annual housing requirement?;</p>

	<p>b) From November 2017, a 20% buffer on top of the requirement to maintain a five year housing land supply where delivery falls below 85%?;</p> <p>c) From November 2018, application of the presumption in favour of sustainable development where delivery falls below 25%?;</p> <p>d) From November 2019, application of the presumption in favour of sustainable development where delivery falls below 45%?; and</p> <p>e) From November 2020, application of the presumption in favour of sustainable development where delivery falls below 65%?</p>
	<p><i>a) No, the figure is too restrictive and takes too little account of fluctuations in the normal course of events or because the housing market is weakening generally, which the local authority has little control over. If the requirement for an 'action plan' is introduced, the Government should be clear on the appropriate scope. Given the relatively small scale of under-delivery (only 5% below target) any new policy requirement should make clear that an action plan should be proportionate, and not place undue burden on already stretched local authority resources.</i></p> <p><i>b) - e) As stated above, this approach does not take account of possible previous over-delivery. Therefore, any such provisions should take account of whether there has been persistent under-delivery, as at present. However, the general principle of a graduated approach is supported.</i></p>
30	<p>What support would be most helpful to Local Planning Authorities in increasing housing delivery in their area?</p>
	<ul style="list-style-type: none"> <i>• Further removal of local authorities ability/ duty to properly plan housing development is not the answer to achieving long-term, sustainable development.</i> <i>• A simpler CPO process that encourages LAs to proceed with CPO at the early stages of regeneration activity - an ability to serve CPOs on allocated land where either no applications or permissions have been submitted, or where multiple owners are preventing agreement on a scheme being agreed. An example in Gateshead is a neighbourhood growth area in Ryton with capacity to deliver 550 homes but which is being held up.</i> <i>• Timely enabling funds that allow us to build capacity when we need it, not just when Gov't funding bidding rounds arise.</i> <i>• Recognition that in Gateshead the key barrier to development is not planning, but high development costs and lower sales values, (more profitable for developers to go elsewhere); so we require grant or long-term investment funding to overcome viability, and incentivise development in Gateshead.</i> <i>• Additional LPA resources including the return of area based regeneration initiatives and regionally specific support e.g. tailored government funding.</i> <i>• Coordinated approach to planning over strategic areas (not just LPA areas, or the combined areas of those LPAs who opt to work on joint plans) would result in more sustainable patterns of growth, would aid delivery of Local Plan documents. It would also provide certainty and infrastructure delivery that would improve overall housing delivery and strengthening housing markets.</i> <i>• Finance lending with the ability to take greater risks on SME builders than current lenders.</i>

	<ul style="list-style-type: none"> • <i>Resources. In specialisms. Non statutory consultees have been cut significantly in most LPA's.</i> • <i>Frontloading constraints as suggested would require a significant advance investment.</i> • <i>Streamline the appeals process to reduce the resources required from the LPA to defend a case. In addition to placing additional pressure on LPA resources, the resource demands of appeals could dissuade some LPAs from refusing applications they would otherwise wish to prevent</i> • <i>Committee reports – required to include significantly more detail in order to avoid challenge.</i> • <i>National consistency on validation.</i> • <i>The Council suggests having a competent person's scheme for certain issues which would reduce the need for LPA experts to check submitted information. However, this would need to be robust to ensure issues are addressed and mitigated appropriately.</i>
31	<p>Do you agree with our proposals to:</p> <p>a) amend national policy to revise the definition of affordable housing as set out in Box 4?;</p>
	<p><i>A clear definition of "affordable home ownership" is required. The definition for Starter Homes doesn't appear to include any perpetuity/recycling clause as suggested earlier in the White Paper</i></p> <p><i>The widening out of affordable and recognition of that Starter Homes should be part of a mixed package of affordable housing is welcome. This will ensure that all age groups will benefit from affordable provision. It will be very important that Local Authorities retain the ability to set their own overall targets for Affordable homes, and to set the split of affordable accommodation types, based on local evidence.</i></p> <p><i>Social rented and affordable rented housing provision is always undermined by Right to Buy.</i></p>
	<p>b) introduce an income cap for starter homes?;</p>
	<p><i>Yes. There still needs to be an adequate assessment of eligibility/need, depending on average local incomes and individual site sale values.</i></p> <p><i>There is still concern that the focus on starter homes will not allow local authorities to plan for their local housing need. There will be tension with proposals to encourage more development that meets the needs of our ageing population.</i></p>
	<p>c) incorporate a definition of affordable private rent housing?;</p>
	<p><i>A clear definition will be necessary.</i></p> <p><i>How this will be subsidised, needs to be very clearly set out - there must be a level playing field, including for Registered Providers to enter this market.</i></p> <p><i>The Council would question how this will be monitored and enforced?</i></p>

	<p><i>Why is the rent level (20% below local market rent) set differently than “affordable rent” offered by the social sector– what is this indicating?</i></p> <p><i>How will inclusion of “Affordable private rent housing within the definition of “Intermediate housing” work? Why duplicate?</i></p>
	<p>d) allow for a transitional period that aligns with other proposals in the White Paper (April 2018)?</p>
	<p><i>This review of the definition will not assist local authorities who are in the middle of developing policies or carrying out SHMAs – a transition period is not the issue.</i></p>
32	<p>Do you agree that:</p> <p>a) national planning policy should expect local planning authorities to seek a minimum of 10% of all homes on individual sites for affordable home ownership products?</p>
	<p><i>Gateshead requires 15% affordable homes on sites of 15 or more dwellings (encouraging 65% for subsidised rent and 35% for subsidised homeownership) – This varies from the proposal in b) below. It will be very important that Local Authorities retain the ability to set their own overall targets for Affordable homes, and to set the split of affordable accommodation types, based on local evidence.</i></p>
	<p>b) that this policy should only apply to developments of over 10 units or 0.5ha?</p>
	<p><i>This is a lower threshold than in Gateshead currently but appears reasonable. A very low development/site size threshold would discourage and/or delay development and adversely impact on small developers.</i></p>
33	<p>Should any particular types of residential development be excluded from this policy?</p>
	<p><i>This should be a matter for Local Authorities to determine, subject to evidence based assessment. However, It will be important that Government policy supports and backs up Local Authorities that have an evidenced based assessment of local need.</i></p>
34	<p>Do you agree with the proposals to amend national policy to make clear that the reference to the three dimensions of sustainable development, together with the core planning principles and policies at paragraphs 18-219 of the National Planning Policy Framework, together constitute the Government’s view of what sustainable development means for the planning system in England?</p>
	<p><i>The Council agrees.</i></p>
35	<p>Do you agree with the proposals to amend national policy to:</p> <p>a) Amend the list of climate change factors to be considered during plan-making, to include reference to rising temperatures?</p> <p>b) Make clear that local planning policies should support measures for the future resilience of communities and infrastructure to climate change?</p>
	<p><i>a) No objectives to this amendment. There would be minimal implications for Gateshead as a result of this change as rising temperatures are already a consideration for the implications of climate change.</i></p> <p><i>b) This Council has a policy in a post-NPPF adopted Plan which states that development</i></p>

	<i>must 'provide resilience to the ongoing and predicted impacts of climate change'. There is no objection to the suggested amendment.</i>
36	Do you agree with these proposals to clarify flood risk policy in the National Planning Policy Framework?
	<i>The Council broadly agrees with the proposals as set out but would be concerned regarding the resource implications arising from the proposals.</i>
37	Do you agree with the proposal to amend national policy to emphasise that planning policies and decisions should take account of existing businesses when locating new development nearby and, where necessary, to mitigate the impact of noise and other potential nuisances arising from existing development?
	<i>The Council already does this to a certain extent, but it is difficult to take into account future growth or changes in the operation of adjacent commercial premises.</i> <i>An example of this in Gateshead is a residential scheme near to a manufacturing plant. Although noise assessments identified and predicted future noise levels from site, 24 hour working was implemented without any planning control and operations changed which led to noise complaints from residents.</i>
38	Do you agree that in incorporating the Written Ministerial Statement on wind energy development into paragraph 98 of the National Planning Policy Framework, no transition period should be included?
	<i>There would concerns over the incorporation of the Ministerial Statement into NPPF, in particular reference to only permitting 1 or more wind turbines in areas identified as suitable for wind energy in a plan. As Gateshead Council has not identified such areas, this would result in no turbines being permitted in Gateshead. As interest in wind energy in Gateshead is limited, the impact would be currently minimal, however it would not be prudent to rule out future interest. In addition, there is no clarity on whether this includes small-medium scale turbines, for which there is more scope in Gateshead.</i> <i>In addition the notion that local communities should back any proposals for wind turbines is a barrier to their development, and is not a pre-requisite for other types of development, and is therefore an inconstant approach when considered against the NPPF's presumption in favour of sustainable development.</i>

“Planning and Affordable Housing for Build to Rent” - Response of Gateshead Council to Government Consultation

Policy Context

1. The Government has issued a consultation document to seek views on planning and affordable housing policies intended to speed up the development of large-scale, purpose-built, privately rented housing – an emerging housing sector known as ‘Build to Rent’. The consultation is linked to, and running in parallel with, consultation on the Housing White Paper.

Background

2. Recent years have seen the emergence of a new sector in the housing market, namely large-scale developments purpose-built for private rent – often referred to as ‘Build to Rent’. In part this reflects underlying demographic and economic conditions of increased demand for rented housing, and the availability of institutional capital for investment in residential property.
3. The Government sets out how it welcomes Build to Rent as “a desirable and enduring feature of the housing market”, and this is reflected in the new Housing White Paper. Government wishes to understand the barriers to investment, and how they may be mitigated.
4. The focus of the Government’s interest is on the acquisition of land, the predictability and speed of the planning system, including negotiations of planning obligations relating to affordable homes. The Consultation Paper puts forward measures intended to support Build to Rent through the planning system and make the benefits of Build to Rent more widespread. These include the availability of longer tenancies (to those tenants who want one).
5. The Government is also specifically considering provision of “Affordable Private Rent” homes, which they see as suited to Build to Rent schemes. This provision is being seen as an alternative to existing forms of affordable housing development. The Consultation Paper suggests that a big advantage of Affordable Private Rent would be that, by combining all of the market and discounted units into a single development under common control, without the separate involvement of a social landlord, efficiencies can be realised in the design, density, construction and management of schemes.
6. The existing definition of affordable housing in the National Planning Policy Framework implicitly allows Affordable Private Rent (also known as discounted market rent), to count as intermediate housing where the following conditions apply:
 - The housing is provided to eligible households whose needs are not met by the market.

- Eligibility is determined with regard to local incomes and local house prices.
 - The homes should include provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision.
 - The housing is provided at a cost above social rent but below market levels.
7. Nevertheless, to make this explicit, the Government is proposing, through the Housing White Paper, the following definition:
“Affordable private rent housing is housing that is made available for rent at a level which is at least 20 per cent below local market rent. Eligibility is determined with regard to local incomes and local house prices. Provision should be made to ensure that affordable private rent housing remains available for rent at a discount for future eligible households, or for alternative affordable housing provision to be made if the discount is withdrawn. Affordable private rented housing is particularly suited to the provision of affordable housing as part of Build to Rent Schemes”
8. The Consultation paper advises that PWC, a consultancy firm, has predicted that 25% of households nationally, will be living in the private rented sector by 2025, up from 19% in 2014-15.
9. By comparison, the private rented sector in Gateshead grew by 70% between 2001 and 2011 (then, a much higher rate of increase than the national level). As a proportion of the total housing stock of the Borough, this resulted in a growth of 5.8% in that period (from 7.6% to 13.4 %). Principle causes:
- increase in buy to let as investment;
 - inability to access suitable social housing
 - and the dramatic fall in first time buyers, due to affordability (rising prices; unemployment; squeezed incomes), has created an increase in young households in the PR sector.
- Between 2011 and 2016, the PRS has continued to increase, but at a slower rate; at April 2016, the PRS accounted for nearly 16% of Gateshead’s total housing stock (approximately 14,600 properties); this remains below the national average (19%).

Implications

10. The Council’s intention, through its housing growth strategy, is to diversify the housing market in Gateshead, the widening of the build to rent market would support this objective; the current build to rent market in Gateshead has tended to be focused on higher density flatted accommodation around the Quays area of the Borough. How a widened build to rent market will fit or compete with market sale, market rent, and traditional affordable housing development by registered providers, would need to be followed.
11. In terms of “Affordable” build to rent, the Government’s intention, as set out in the Housing White Paper is to make it easier for Build to Rent developers to offer affordable private rental homes instead of other types of affordable housing. The proposals that are consulted on in the White Paper could have implications for

the next stage of the Gateshead Local Plan, in particular the method used for calculating the objectively assessed housing need for Gateshead. It will also be important to understand how such development would fit with our current Local Plan requirements for 60% of new housing across the plan area to be suitable for and attractive to families (3-4 bedrooms), and to increase the choice of suitable accommodation for our growing older population.

12. The “affordable” build to rent market is untested in Gateshead, and it will be necessary to monitor how it would perform in terms of quality, space, and design standards. Much will also depend on how the Government incentivises the market, and whether it imposes requirements and delivery targets on local authorities, that could impact on our ability to apply local planning policies covering space standards, design and accessibility.

Gateshead response

13. There are 26 questions in the Consultation Paper. Gateshead’s response to the consultation is set out in the attached annex.

Implications of Recommended Option

14. Resources:

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that there are no specific financial implications arising from this consultation.
 - b) **Human Resources Implications** – No human resources implications.
 - c) **Property Implications** – No property implications.
15. **Risk Management Implication** – No risks associated with the consultation.
 16. **Equality and Diversity Implications** – No equality and diversity implications
 17. **Crime and Disorder Implications** – No crime implications.
 18. **Health Implications** – No health implications.
 19. **Sustainability Implications** – No sustainability implications directly arise from this report
 20. **Human Rights Implications** - No human rights implications.
 21. **Area and Ward Implications** – The detail of this consultation links to specific proposals in the Housing White Paper to change the National Planning Policy Framework so authorities know they should plan proactively for Build to Rent,

where there is a need, and to make it easier for Build to Rent developers to offer affordable private rental homes instead of other types of affordable housing. The proposals that are consulted on in the White Paper could have implications for the next stage of the Gateshead Local Plan, in particular the method used for calculating the objectively assessed housing need for Gateshead.

Annex

Gateshead Council response to:

Planning and Affordable Housing for Build to Rent DGLC consultation 7th Feb 2017

Q1-Q4 (contact details)

Q 5: Do you consider there are market and regulatory failures impeding the rapid development of the Build to Rent market that merit national policy intervention? Please add comments.

- Yes
- No
- Don't know

The key issue in Gateshead is development viability, due to high development costs and lower development values, rather than regulation.

We need to be careful of misreading due diligence in applying proper control, and regulation to protect tenants and sustainability of development, as failures; for example, there have been sound grounds for introducing Selective Landlord Licensing, and we are still seeing high demand for services to enforce the Housing Health and Safety Rating System in respect of the private rented sector.

Gateshead is intending to introduce the Nationally Described Space Standards through its local plan documentation, removing Build to Rent development from this would be inappropriate. The imposition of policies designed to overcome issues in areas of very high demand would not support market sustainability in areas such as Gateshead.

Given that registered social housing providers are still delivering in an uncertain market and funding landscape, and are looking to diversify their businesses into market rent, it will be important that a level playing field is maintained (particular over space standards), otherwise competition will just narrow the market and stifle delivery.

Q 6: Do you agree with the proposal to refer explicitly to Build to Rent in the National Planning Policy Framework?

- Yes
- No
- Don't know

Gateshead already has robust housing policies that address locally assessed housing need and encourage development across all tenures. The Council is, in parallel, committed to supporting a diverse housing market through proactive engagement with developers and investors.

In considering any policy definition, covering "Affordable Build To Rent" the issues of perpetuity, or recycling of discount, as well as eligibility, will be key.

Q 7: Do you think that Government should set a policy expectation on Affordable Private Rent in the National Planning Policy Framework, or not? (Please state your reasons).

- Yes
- No
- Don't know

This should be a matter for the Local Planning Authority, based on an assessment of local need. Imposed targets will inevitably lead to unintended consequences, and local need may not be met.

It is not clear whether the Government's intention is to prioritise Affordable Build to Rent only within Build to Rent schemes. This again should be a matter for local policy.

Q 8: Will a policy expectation in the National Planning Policy Framework send a sufficiently strong signal to support Affordable Private Rent as the main vehicle for affordable housing in Build to Rent? (Please state your reasons)

- Yes
- No
- Don't know

The issues must include viability and local need, not just about providing confidence to the market.

Q 9: Do you consider that Affordable Private Rent could play a useful role in the delivery of affordable housing in the area(s) where you live or operate?

- Yes
- No
- Don't know

Delivery must be based on local need and market conditions. It is uncertain whether, in Gateshead, the affordable private rental market would deliver the homes needed that are suitable for families and older people.

Q 10: Do you consider that the efficiencies arising through on-site provision of Affordable Private Rent can materially improve the viability of Build to Rent, compared to other affordable housing tenures?

- Yes
- No
- Don't know

Q 11: Do you consider that there could be unintended consequences of Affordable Private Rent if it is accepted as a form of affordable housing?

- Yes
- No
- Don't know

Yes, if targets imposed are not based upon local need. It may well impact on the delivery of Private Registered Providers' development programmes, and compete unfairly; ultimately narrowing the housing market.

Q 12: If your answer to Q11 is yes, would these consequences be mitigated by limiting Affordable Private Rent only to Build to Rent schemes?

- Yes
- No
- Don't know

See answers to Q9 and Q12

Q 13: Do you think it is reasonable for Planning Authorities to specify minimum tenancy lengths in Build to Rent schemes? Please add your reasons, and give examples of such agreements where appropriate.

- Yes
- No
- Don't know

A key issue would be how this would impact on development viability, particularly in weaker housing market areas.

Q 14: Do you agree that Build to Rent tenancies should be for at least three years (with a one month break option for the tenant after the first six months), for all customers in the development who want one?

- Yes
- No
- Don't know

It would be essential that there is good, plain English, advice available to tenants on the tenancy options and conditions, to ensure the tenants make well informed decisions. This could adversely affect demand, should a customer wish to test the water on a development first and not wish to commit to 3 years tenancy.

Q 15: Does the definition of Build to Rent set out on page 20 capture all of the appropriate elements? (If not, please state why, and what criteria should apply).

- Yes
- No
- Don't know

The typology should not exclude bungalows; we must send signals to the market that we need to provide for our older population, and maximise the range of accommodation provided.

Affordable Private Rent – Should include perpetuity and/or discount recycling, and should still be secured through S106 Agreements.

Q 16: Do you agree that the National Planning Policy Framework should put beyond doubt that Affordable Private Rent qualifies as affordable housing in Build to Rent schemes? (If not, please state why).

- Yes
- No
- Don't know

A definition alone is not considered an issue.

Q 17: Do you agree with the proposed definition of Affordable Private Rent set out on page 21? (If not, please state why, and what criteria should apply).

- Yes
- No
- Don't know

To ensure a level playing field, and fairness to tenants, the issue of perpetuity needs to be very strongly enforced. The definition makes connection with Build to Rent Schemes, is this an unnecessary reference that could add uncertainty. If it is an appropriate solution, it should not be limited to any development scheme. Again, this should be a matter for locally determined policy. There is concern that it could result in a narrowing of

the market, if it drives out Registered Providers due to the playing field not being level, specifically in relation to design quality and space standards.

Q 18: The Government intends to set the parameters of Affordable Private Rent as:

- a minimum of 20 per cent of the homes to be discounted;
- the discount to be set at minimum of 20 per cent relative to the local market;
- an offer of longer tenancies of three years or more;
- the discount to apply indefinitely (subject to a “claw-back” arrangement if Affordable Private Rent homes are withdrawn).

Taken as a whole, are these parameters: (i) reasonable; (ii) too onerous; (iii) insufficient? Which, if any of them, would you change and why?

- Reasonable
- Too onerous
- Insufficient
- Don't know

A key issue here is monitoring, and resourcing of this by Local Authorities.

It will be important to include a local connection criteria (including those accessing demonstrable employment opportunities), to give priority to meeting the needs of local population.

Imposing national targets on provision could bring unintended consequences, particularly if developers are not prepared to enter this market.

There is significant scope for manipulation of commuted sum calculation – It would be prudent to introduce a requirement to demonstrate full/open marketing of the property, and to give consideration to what would happen if market demand does not materialise.

In low market value areas, 20% of sale value may contribute very little to enabling alternative provision.

Q 19: Should the parameters for Affordable Private Rent appear on the face of the National Planning Policy Framework or within Planning Practice Guidance?

- National Planning Policy Framework
- Guidance
- Not helpful to specify parameters
- Don't know

This will be dependent on what the Government intends to include in the parameters – see answer to Q18 above.

Q 20: The Government is minded to leave determination of eligibility and nomination criteria for Affordable Private Rent to negotiation between the developer and the local authority. Do you support this position? Will it affect take-up of the policy? Please give your reasons.

- Support position
- Do not support position
- Will affect policy take-up
- Will not affect policy take-up
- Don't know

To ensure this is manageable and fair, this must be a common process that ensures consistency. Local Authorities should be supported to determine income eligibility through evidence based policy development, not in an adhoc way.

Q 21: The Government considers there is no need for a fixed minimum covenant period, so long as appropriate claw-back arrangements are provided for. Do you agree?

- Yes
- No
- Don't know

This appears to contradict the desire to increase the tenancy period, and give security to tenants.

See also answer to Q18 i.e. There is significant scope for manipulation of commuted sum calculation – Will there be a requirement to demonstrate full/open marketing of the property, and what happened if market demand does not materialise?

In low market value areas, 20% of sale value may contribute very little to enabling alternative provision.

Q 22: Do you think Government should (a) prescribe the basis for calculating the amount of claw-back, (b) set a possible basis for calculating the amount of claw-back in guidance, or (c) leave the amount of claw-back to be agreed between the local authority and the applicant?

- (a)
- (b)
- (c)
- Don't know

Providing this allows for the factoring in of local conditions, and delivers on the intended outcome.

Q 23: Should the Government's Build to Rent and Affordable Private Rent policy be identical across the whole of England or does it need to be set differently between London and the rest of England? If it should be set differently, please use the comments box to tell us how and why the policy should vary in London from the rest of England.

- Identical across the whole of England
- Different for London
- Don't know

There needs to be an understanding of the likely market response (or lack of appetite/race to the lowest standards) in areas of weaker housing markets.

Q 24: Would it be helpful for Government to produce model clauses (which would not be mandatory) that could be used in Section 106 agreements to give effect to Affordable Private Rent?

- Yes
- No
- Don't know

Q 25: Is a transitional period of six months appropriate for the introduction of the policy? (If not, why not?)

- Yes
- No
- Don't know

It will be important to understand how this time frame fits (or not) into local authority Local Plan process/reviews.

Q 26: Does the summary Equalities Statement in Annex A represent a fair assessment of the equalities impacts of the policy proposals in this consultation? Please provide any further evidence on this issue, including how any negative impacts might be minimised and positive impacts enhanced.

- Yes, a fair assessment
- No, not a fair assessment
- Don't know

TITLE OF REPORT: Primary and Secondary Community, Community Controlled School Admissions Arrangements and Co-ordinated admission schemes for Primary and Secondary Schools for 2018/19

REPORT OF: Sheena Ramsey, Chief Executive

Purpose of the Report

1. The purpose of this report is to request Cabinet to approve the following:
 - proposed Community Secondary Schools Admission Policy 2018;
 - proposed Community Secondary Schools Sixth Form Admissions Policy, 2018;
 - proposed Community and Voluntary Controlled Primary Schools Admission Policy 2018;
 - proposed Co-ordinated admission schemes for Infant, Junior, Primary schools and Secondary Schools 2018

and to note the following:

- proposed Planned Admission Numbers (PAN's) for Community schools and primary and secondary academies for 2018.

Background

2. The school admission code "the code" applies to school admission arrangements for admission in the 2018/19 academic year. It applies to all maintained schools in England. Academies, including those that are Free schools are required, to comply with the code and the law relating to admissions, though the Secretary of State has the power to vary this requirement where there is a demonstrable need.
3. The code and the related legislation ensures that school admission authorities, whether Local Authorities (LAs) or schools and academies, must operate in a fair way that promotes fair access to school choice, social equity and community cohesion. The Code has a statutory basis and imposes mandatory provisions. Admission authorities must ensure that their school admission arrangements comply with the mandatory provisions of this Code.
4. Admission regulations dissapply the necessity to consult on the arrangements if they remain the same and have been consulted on the previous 7 years and remain unchanged. This was the case for the 2016 admission arrangements. It should be noted that amendment to the policies to reflect mandatory requirements relating to the extended definition of Looked After Children (LAC) updated in the 2013 policies do not constitute a change requiring consultation.

5. The proposed school admission policies for 2018/19 (attached) have regard to the code issued in December 2014. They have been formulated having taken account of the responses received from consultees in previous years (including individual parents and carers) following a consultation process that was completed in January 2016.
6. National offer dates apply for both the Secondary and Primary admission rounds. The Secondary national offer date is 1 March whilst the Primary offer date is 16 April each year. In both instances where the set national offer day falls on a Saturday or Sunday or bank holiday the actual offer date will move to the first working day after that.
7. The proposed Planned Admission Numbers are attached in appendices 2 and 3. The proposed Co-ordinated admission schemes set out in appendix 4 contain compliance dates for the exchange of information between schools and the LA so that co-ordination of the allocation of places to parents can take place by statutory deadlines. The dates contained in the schemes largely mirror the compliance dates and timeframes set in the previous year.

Proposal

8. Cabinet is asked to consider the following:
 - The proposed Community and Voluntary Controlled Primary Schools admission policy for September 2018 as attached in appendix 2, together with their proposed Planned Admission Numbers for 2018/19.
 - The proposed Community Secondary Schools and Sixth Form Admission Policies for September 2018, attached in appendix 3, together with their proposed Planned Admission Numbers for 2018/19.
 - The proposed separate co-ordinated admission schemes for Secondary schools and Infant Junior and Primary schools for September 2018.
9. It is proposed, in accordance with statutory regulations, to adopt the closing dates of 15 January 2018 (for primary schools) and 31 October 2017 (for secondary schools) for the submission of applications for admission to schools in September 2018.

Recommendations

10. It is recommended that:
 - (i) The Community and Voluntary Controlled Primary Admissions Policy set out in appendix 2 are adopted for September 2018.
 - (ii) The Community Secondary School Admissions Policy and Sixth Form Admissions Policy set out in appendix 3 are adopted for September 2018.
 - (iii) The approved admissions policies for September 2018 are used as a basis of consultation, if necessary, with schools and others for formulating the relevant admissions policies from September 2019/20.
 - (iv) The approved two co-ordinated admission schemes for Secondary and Infant Junior and Primary schools are adopted for September 2018.

- (v) Note that the Planned Admissions Numbers set out in appendices 2 and 3 for all community Secondary and Primary schools are to be adopted by the governing bodies of each school.

For the following reason:

To enable the Council to comply with statutory legislation as it relates to school admissions policies, admission arrangements and co-ordinated admission arrangements.

CONTACT: Jeanne Pratt extension: 8644

Policy Context

1. This report supports the Council's aims as set out in 'Vision 2030' of helping people to learn and develop through their lives and in raising levels of educational achievement. The proposals also support the Council's Equal Opportunities policy. The report reflects the duties placed on the Council by legislation and statutory guidance.

Background

2. At its meeting in April 2016, the Cabinet agreed that the approved school admissions policies for September 2017 be used as a basis for the school admissions policies for September 2018.

Statutory Infant class size limit

3. In certain defined circumstances as listed as "excepted reasons" within the admission code individual children must be admitted above the statutory infant class size limit of 30 children to a single teacher. The admission code issued in December 2014 added an additional category to the list of "excepted reasons" which now includes;
 - Children of UK service personnel admitted outside the normal admission round;

Allocation system- Equal Preference

4. The Admissions code requires all admission authorities to implement a mandatory "equal preference" allocation system when considering parental preferences. Freedom to express choice under the Equal Preference system does not override the admission criterion that applies to applicants for admission to individual schools.

Fair Access Protocols

5. The school admissions code requires all admission authorities to participate in the Fair Access Protocol to ensure that unplaced vulnerable children, who move into the borough outside of the normal admissions round, are quickly allocated a school place. There is no duty to comply with parental preference when allocating places through the Fair Access Protocol. Children who have been referred for admission and allocated a school through the Fair Access Protocol will take precedence over all children on the waiting list with the exception of children in public care "looked after" children as defined within the policy. If appropriate to do so, the LA through the Fair Access Protocol, may determine that such children should be admitted above the planned admission number for a relevant school.

Waiting lists

6. Waiting lists will be maintained for all oversubscribed community schools for the whole of the academic year.

Children in Public Care

7. Children in public care **must** have top priority in school admission arrangements this definition was extended in the admission code issued on 1 February 2012, to include children who were previously looked after but immediately after being “looked after” became subject to adoption residence, or special guardianship order. Policies have been updated to include this mandatory provision

Exceptional Social and Medical Grounds

8. The LA considers cases from parents who have submitted the required independent evidence from a relevant health professional i.e. doctor or social worker as part of the admission process. This independent evidence must clearly demonstrate why the chosen school is the most suitable school and what difficulties would be caused if the child were to attend another school. These cases will be referred to the primary and secondary fair access panels for consideration.

Planned Admission numbers

9. The proposed Planned Admission Numbers (PAN) for community primary schools and academies are contained within appendices 2 and 3.
10. The LA recently consulted on the changes to the PAN for Emmaville Primary School, Winlaton West Lane Primary School and Glynwood Primary School.
11. Emmaville Primary School – Due to a large scale housing development in the school’s catchment area, following an informal consultation with the head teachers from the Thorp cluster in 2016, it was proposed to increase the school to two form entry with additional classroom space being paid for from developer contributions. Following formal consultation an objection was received from Ryton Infant and Junior Schools who felt that this would be detrimental to their numbers and future sustainability. An analysis of the school preference and catchment data does not support this concern. Emmaville has a number of children from the Ryton catchment area and as more children from their catchment access the school, places will no longer be available for non-catchment children. There is also a proposal for a large scale housing development in the Ryton catchment area which will help the future sustainability of the school.
12. Winlaton West Lane Primary School – The school was increased to two form entry in 2014, however, data on school preference trends suggests that there are insufficient pupil numbers to accommodate a two form entry school at this time. It is therefore proposed to reduce the school’s PAN to 45. No objections were received to this proposal.
13. Glynwood Primary School – The school requested that due to increased demand their PAN be increased to 60 from 45 as most year groups are over this number. As a result of two objections received from St Anne’s Catholic Primary School and Larkspur Primary School, it is felt that more data is needed to support an increase to ensure that any increase will not be detrimental to schools in the area. Therefore this proposal is not to be implemented.
14. All other schools are to maintain their current PAN.

15. The proposed Planned Admission Numbers (PAN) for community secondary schools and academies are contained within appendices 4 and 5.

Sixth Form Admission Numbers

16. The proposed Sixth form admission numbers in appendix 6 reflect the requirement to have a realistic admission number for those external pupils, i.e. those not on roll of the school in year 11, who are applying for year 12 entry for the first time.

Mandatory Closing dates for return of applications- Primary and Secondary

17. Mandatory closing dates apply for the return of applications for Secondary and Primary admissions have been incorporated into the relevant admission policies.

Co-ordinated admission schemes 1) Secondary schools and 2) Infant, Junior and Primary schools

18. Both schemes contain the administrative timescales that must be met by those schools and academies who determine their own admission arrangements so that they can supply the LA with the allocation lists for their school enabling the co-ordination of the allocation of places by the LA to parents across the borough and for schools in neighbouring boroughs. The local dates contained in both schemes are similar to those set in the previous year and have regard to statutory deadlines contained in the admission code. This information is provided in appendices 7 -10.

Consultation

19. The admission code issued on December 2014 allows for exemption to consultation for up to 7 years providing the admission arrangements (admission criteria) were consulted on immediately prior to that period and have not changed. Providing the admission arrangements are the same as those in the previous years it is not necessary to consult on the admission arrangements. This is the case for 2018 as a full consultation process was completed for the 2016 admission process.
20. The Cabinet MemberS for Children and Young People has been consulted on this report.

Alternative Options

21. There is no alternative to considering and adopting policies proposed in this report.

Implications of Recommended Option

22. Resources:

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that there are no financial implications arising from this report
- b) **Human Resources Implications** – None

- c) **Property Implications** - Schools that have increased their Planned Admission Numbers have confirmed that space is available to accommodate the planned increase in numbers in future years.

23. **Risk Management Implication** - None

24. **Equality and Diversity Implications** - The policies comply with equal opportunities requirements in that all persons are treated equally with criteria being applied objectively.

Section 85 of the Equality Act 2010 determines that it is unlawful to discriminate on the grounds of the person's religion or religious belief in specific ways including the terms on which an admission authority offers to admit a child or affords a child access to a benefit, facility or service or refuses him/her the benefit, facility or service. The Secretary of State has exempted those schools having religious character (faith schools) from this requirement. However, all schools need to be aware of their obligations to review their policies and practices to make sure these meet the requirements of the Act, even if they believe that they are already operating in a non-discriminatory way.

25. **Crime and Disorder Implications** – Nil

26. **Health Implications** - Nil

27. **Sustainability Implications** - Nil

28. **Human Rights Implications** - School Admissions Policies have Human Rights Implications. It is a convention right that no person should be denied the right to education. The Policy pursues a legitimate aim and is proportionate. It is necessary to assist the LA and governors in distinguishing between competing applications. It is also necessary to allow parents to more accurately assess the prospects of their being able to obtain a place at the school/s they prefer.

29. **Area and Ward Implications** - All Wards are covered by this report

SEPTEMBER 2018

PRIMARY COMMUNITY AND VOLUNTARY CONTROLLED SCHOOLS PLANNED ADMISSION NUMBERS

Primary School	DfE Number	Determined Planned Admission Number 2017	Proposed Planned Admission Number 2018
Barley Mow Community Primary	2226	30	30
Bede Community Primary	2039	30	30
Bill Quay Primary	2197	30	30
Birtley East Community Primary	2163	30	30
Blaydon West Primary	2182	30	30
Brandling Primary	2200	27	27
Brighton Avenue Primary	2221	45	45
Caedmon Community Primary	2233	30	30
Carr Hill Community Primary	2008	45	45
Chopwell Primary	2235	45	45
Clover Hill Community Primary	2216	30	30
Colegate Community Primary	2228	45	45
Crookhill Community Primary	2219	30	30
Dunston Hill Community Primary	2164	60	60
Emmaville Primary	2167	45	60*
Falla Park Community Primary	2198	30	30
Fellside Community Primary	2231	30	30
Fell Dyke Community Primary	2232	45	45
Front Street Community Primary	2184	60	60
Glynwood Community Primary	2225	45	45

Greenside Community Primary	2181	30	30
Harlow Green primary	2238	60	60
Highfield Community Primary	2186	17	17
High Spen Primary	2168	29	29
Kells Lane Primary	2234	60	60
Kelvin Grove Community Primary	2012	60	60
Larkspur Community Primary	2051	29	29
Lingey House Primary	2205	60	60
Lobley Hill Primary	2222	60	60
Oakfield Junior	2049	60	60
Oakfield Infant	2055	60	60
Parkhead Community Primary	2236	58	58
Portobello Primary	2162	30	30
Ravensworth Terrace Primary	2058	60*	60
Roman Road Primary	2229	30	30
Rowlands Gill Primary	2239	60	60
Ryton Community Junior	2193	60	60
Ryton Community Infant	2188	60	60
South Street Community Primary	2036	44	44
Swalwell Primary	2172	30	30
The Drive Community Primary	2213	29	29
Wardley Primary	2224	45	45
Washingwell Community Primary	2194	30	30
Whickham Parochial C of E Primary	3001	30	30
White Mere Community Primary	2214	30	30
Windy Nook Primary	2227	45	45
Winlaton West Lane Community Primary	2177	60	45**

* Indicates an increase to the Planned Admission Number, with effect from September 2018

** Indicates a reduction to the Planned Admission Number, with effect from September 2018

SEPTEMBER 2018

PRIMARY ACADAMIES - PLANNED ADMISSION NUMBERS

Academy	DFE Number	Determined Planned Admission Number 2017	Proposed Planned Admission Number 2018
Riverside Academy	2220	60	60
Kibblesworth Academy	2058	29	29

SEPTEMBER 2018

COMMUNITY SECONDARY SCHOOL - PLANNED ADMISSION NUMBERS AND SIXTH FORM ADMISSION NUMBERS

Secondary School	DfE Number	Determined Planned Admission Number 2017	Determined Sixth form Admission Number 2017	Proposed Planned Admission Number 2018	Proposed Sixth form Admission Number 2018
Heworth Grange Comprehensive	4036	210	40	210	40
Kingsmeadow Community Comprehensive	4041	180	-	180	-

Appendix 5

SEPTEMBER 2018

SECONDARY ACADEMIES - PROPOSED PLANNED ADMISSION NUMBER AND SIXTH FORM NUMBER

Academy Name	DfE Number	Determined Planned Admission Number 2017	Determined Sixth form Admission Number 2017	Proposed Planned Admission Number 2018	Proposed Sixth form Admission Number 2018
Joseph Swan Academy	4043	210	40	210	40
Lord Lawson of Beamish Academy	4027	254	40	254	40
Whickham School and Sports College (Academy Trust)	4029	266	40	266	210
Thomas Hepburn Academy	4000	150	-	150	-

Community Secondary Schools Sixth Form Admission Policy September 2018 - Applications for Year 12

We the Local Authority (LA) are the admitting authority for the school our policy is as follows:

The school provides courses of study for post 16 (6th form) students. The majority of the 6th form students transfer from year 11, but we generally have places available for external students.

The entry requirements for 6th form are largely dependent on the course of study that a student wishes to access. They are the same for internal and external students

In general, students wishing to access Advanced Level courses must possess a minimum of 4 GCSEs at grade C. To access Intermediate Level courses, some GCSE passes at grade D/E and/or appropriate Level 1 qualification(s) are required. There are no specific qualifications required for entry to Foundation Level courses.

Details of specific entry requirements and courses available may be obtained from the school. The availability of courses is dependent upon the number of applicants and the financial sustainability of the course and the governing body of the school determines this in consultation with the LA.

In the event of oversubscription priority will be given to:

1. Students who have attended the school in the previous academic year (during Year 11) and who satisfy the school's entry requirements for the course available.
2. All other students of the relevant age who satisfy the school's entry requirements for the course available.

Where there are more applicants than places available in any of the priorities above we will then give priority to children in the following order:

- (a) Children in Public Care (and as deemed under Section 22 of the Children Act 1989) including a child who was previously "looked after" but immediately after being "looked after" became subject to an adoption, residence, or special guardianship order (see definition*).
- (b) Students who live in the school's catchment area.
- (c) Students who will have a brother or sister at the secondary school during the coming academic year.
- (d) All other students.

(*see definitions of our criteria in priority (a) and (c) above in our parent's information booklet and at www.gateshead.gov.uk)

Applicants refused admission to a 6th form are entitled to appeal to an independent appeals panel.

Community Secondary schools in Gateshead with 6th forms are as follows:

Heworth Grange Comprehensive School

Gateshead Council Community and Voluntary Controlled Primary Schools Admission Policy 2018/19 (including Kibblesworth and Riverside Primary Academy)

We allocate places at Community Primary, Infant and Junior Schools using the policy below and co-ordinate admissions to Gateshead schools using the co-ordinated admission scheme.

The policy is as follows:

- Your child will start school at the beginning of the academic year in which they will reach the age of five. (An academic year lasts from 1 September in one year to 31 August the following year). Children are entitled to a full time place as soon as they start school, however in most schools, the first term will include an induction period, (a period for your child to get used to school life gradually, generally lasting from September to October). Although, you may request that your child attends school part-time until later in the school year, but not beyond the point that your child reaches compulsory school age.

In addition you may request that your child be admitted to school later in the school year following September 2018, but not beyond the point at which they reach compulsory school age and not beyond the beginning of the final term of the school year (i.e. April 2019).

- We will accept pupils up to the schools agreed Planned Admission Number for the year group unless we feel there are lawful grounds not to do so.

Admission of children outside their normal age group

- Parents may request a place for their child outside their normal age group, for example gifted and talented children, children that have suffered ill health or parents of summer born children (children born from 1 April 2014 to 31 August 2014).

All cases of admission of children outside their normal age group must be discussed with the LA prior to the application being made.

Such requests must be made on the Common Application Form which is available from 8 September 2017. You must detail the circumstances of your case and include any supporting information from relevant professionals.

The LA will consider each case individually and you will be notified of the outcome of your request on or around 16 April 2018.

Please refer to the 'Admission to Primary School' Booklet for further information regarding deferred entry and admission of children outside their normal age group.

Oversubscription Criteria

We will consider applications from parents who have named the school as any ranked preference on their application form; this is called the equal preference system. If there are more applications than number of places available at the school we will then allocate places by using the following order of priority:

1. Children in Public Care (as defined under Section 22 of the Children Act 1989) including a child who was previously "looked after" but ceased to be so because they were adopted (or became subject to a child arrangements order or special guardianship order (see definition*)).

- 2 Children who live in the school's catchment area and who will have a brother or sister at the school, or at the feeder junior school during the coming academic year. (see definition*)
- 3 Other children who live in the school's catchment area.
- 4 Other children who will have a brother or sister at the school or at the feeder junior school during the coming academic year.
- 5 Other children who have exceptional medical or social grounds see point 1 below
- 6 All other children.

(*see definitions of our criteria in priority 1, 2 and 4 above in our parent's information booklet and at www.gateshead.gov.uk)

Point 1-We can consider exceptional individual applications, particularly in cases involving medical or social needs. If you wish to apply on medical or social grounds you must provide written evidence from relevant registered health professionals i.e. a doctor or social worker. The evidence must demonstrate why the chosen school is more appropriate and what difficulties would be caused if they were to travel to and attend alternative schools. We will not consider such applications if the relevant professional evidence is not provided. The evidence will be assessed by the LA Admission Panel. No assumption should be made that submission of the relevant evidence will, in itself, be sufficient to allocate a place.

Whickham Parochial Church of England Controlled Primary School

This school has the same oversubscription criteria as priorities 1 to 6 above except that criteria 3 and 4 above are reversed. Priority 1, 2, 5 and 6 remain in the same order however for this particular school their oversubscription criteria places priority 4 children above those children in priority 3.

Oakfield Junior School

The school has the same oversubscription criteria as priorities 1 to 5 above, however they have additional criteria (7 in total). Criteria 6 is also different from that above. Please see below:

Criteria 1 to 5	Same as criteria 1 to 5 above
Criteria 6	Children that attend Oakfield Infant School
Criteria 7	All other children

Address

For the purposes of deciding whether a child lives in the catchment area of a school we will use the parent or legal guardian's address or the address of a relevant adult who has parental responsibility, as defined under the 1989 Children's Act, for the child.

Tie breaker

If, within any of the above criteria, there are more applicants than places available priority will be given to those children based on the distance they live from the school, measured 'as the crow flies' i.e. in a straight line from the centre of the home residence to the school's main entrance. Children living nearest to the school will have priority. We measure the distance using a geographical information system (GIS). Where two or more applicants share the exact same distance, a random allocation process will be used to determine the ranked order of the applications in question.

Waiting list

If places become available we will consider all relevant applications based on a waiting list. The waiting list will be maintained by the council from the start of the academic year and be kept for the rest of the academic year. All applicants on the waiting list are placed according to the admission criteria and priorities set out above. However children who are the subject of a direction to admit by the LA or who have been referred for admission and have been allocated a place through the Fair Access Protocol will take precedence over any child on the waiting list.

Important Dates

From Friday 8 September 2017 you can apply for a place in a reception or junior class for admission in September 2018 by applying on-line at www.gateshead.gov.uk. You must submit your application by no later than **Monday 15 January 2018**. Alternatively parents wishing to submit a paper application form must ensure that they request a copy in sufficient time and return it to The School Admissions Team, Dryden Centre, Low Fell, Gateshead, NE9 5UR by the closing date.

If you live outside of Gateshead and want to apply to a Gateshead school you must obtain an application form from your own Council and return it to them by their closing date or apply through their on-line application system. However you must still consider the information in Gateshead Council's "Admission to Primary School" booklet so that you know what the admission arrangements are to Gateshead schools. This information is available at www.gateshead.gov.uk. Your own Council will send us notification of your application and they will let you know the final allocation of a school place for your child.

Offer Date

The offer day is Monday 16 April 2018, a letter will be sent to Gateshead residents informing them of the school they have been offered for their child on or around this date. Gateshead residents who apply on-line will also receive an email on Monday 16 April 2018.

General Information and definitions

For information on our admission arrangements and definitions of the terms used in this policy please refer to our "Admission to Primary School" booklet for 2018 available at www.gateshead.gov.uk. The co-ordinated admission scheme and Catchment areas referred to in this policy can also be viewed at The Dryden Centre, Evistones Road, Gateshead, NE9 5UR and on the website above.

Gateshead Co-ordinated Admissions Scheme Infant, Junior & Primary schools September 2018

Introduction

1. This scheme is made by Gateshead Council under the Education (Co-ordination of Admission Arrangements) (Primary) (England) Regulations 2002 and applies to all Infant, Junior & Primary Schools in Gateshead.

Interpretation

2. In this Scheme -

'The LA' means Gateshead Council acting in their capacity as local authority.

'The LA area' means the area in respect of which the LA is the local authority.

'Primary education' has the same meaning as in section 2(1) of the Education Act 1996.

'Infant, junior & primary school' has the same meaning as in section 5(1) of the Education Act 1996.

'Secondary school' has the same meaning as in section 5(2) of the Education Act 1996.

'School' means a community or voluntary school (but not a special school), which is maintained by the LA.

'Academy' means such of the schools have 'academy' status.

'Voluntary controlled schools' means such of the schools as are voluntary controlled schools, where the LA sets the admissions criteria and offers places.

'VA schools' means such of the schools as are voluntary-aided schools.

'Admission authority' in relation to a community or voluntary controlled school means the LA and, in relation to a VA school or Academy means the governing body of that school.

'The specified year' means the school year beginning at or about the beginning of September 2018.

'Admission arrangements' mean the overall procedure, practices, criteria, and supplementary information which govern the procedures and decision making for the purposes of admitting pupils to the school;

'Home LA' means the local authority in which the child resides.

'CAF' means the common application form that must be used by the parent to apply for a school place for normal admission round first year of entry.

'Equal preference system' means all preferences for each school listed by parents on the common application form are considered against the oversubscription criterion without reference to the parental ranking nominated on the CAF. However where a child may be potentially offered a place at more than one school nominated on their CAF, then the rankings

given on CAF will be used to determine the final single offer that will be made by selecting the school that was ranked highest on the CAF for which the child is eligible for an offer.

'Parent or Legal Guardian' means any person who holds parental responsibility, including carers, as defined under the 1989 Children Act and with whom the child normally resides.

'In Year Admissions' means any application for a place in any year group for Infant Junior or Primary school received during the academic year commencing in September 2018.

'Eligible for a place' means that a child has been placed on a school's ranked list at such a point, which falls within the school's published admission number or is eligible following determination under the Fair Access protocol.

Commencement and extent

This scheme applies in relation to the admission arrangements for the schools and Academies for admission year 2018/2019 (the specified year). The LA will include in its admission arrangements for the specified year the provisions set out in Schedule 1 to this scheme, or provisions having the same effect. The governing body of each of the VA schools and academies will include in its admission arrangements for the above year the provisions set out in the Schedule, so far as relevant to that school, or provisions having the same effect.

The Scheme

1. The Scheme shall be determined in accordance with the provisions set out in Schedule 1 and processed in accordance with the timetable set out in Schedule 2.
2. The Scheme shall apply to every infant, junior & primary school including academies in the LA area as identified in Appendix 1 (except special schools).
3. The scheme will also include applications from parents seeking admission to Gateshead schools who live within the following neighbouring LA's:

Durham, Newcastle, Northumberland, South Tyneside and Sunderland

We will also co-ordinate our admission process with any other admission authorities where relevant.

SCHEDULE 1

Part 1 - The Scheme

1. A standard application form known as the Common Application Form (CAF) will be used for applications to school for normal year of entry in the specified year. A standard application form known as 'School Transfer Form' will be used for 'In Year' applications made after the commencement of the academic year 2018.
2. The CAF will be used for the purpose of admitting pupils into the first year of Infant/Junior/Primary education in the academic year 2018/19.
3. The CAF must be used as a means of expressing up to 3 preferences by parents resident in the LA area wishing to express a preference for their child:
 - a) to be admitted to a school within the LA area (Academies, Community, Voluntary aided and Community controlled schools).
 - b) to be admitted to a school located in another LA's area (including Voluntary Aided, Foundation schools and Academies).
4. **The Common Application Form will -**
 - a) allow the parents to express up to 3 preferences by naming them in rank order of preference and where relevant for schools outside Gateshead LA area.
 - b) invite parents to give their reasons for each preference.
 - c) specify the closing date and where the application form must be returned, in accordance with paragraph 10.
5. **The LA will make appropriate arrangements to ensure that:**
 - a) the CAF is available on request from the LA and on-line at **www.gateshead.gov.uk** until the closing date and;
 - b) every parent resident in the LA area who has a child eligible to commence primary education and those transferring from infant to junior school receives a written explanation of how to apply and an explanation of the admission procedures and coordinated admission scheme and has access to the CAF on-line and paper copy (on request only).
 - c) every parent whose application falls within the category of 'in year' admission receives a copy of the School Transfer Form and an explanation of the admission procedures and co-ordinated admission scheme.
6. **The LA will take all reasonable steps to ensure that:**
 - (i) applicants will receive no more than one offer of a school place and
 - (ii) a place will be offered at the highest ranked school for which they are eligible under the admission criteria; and
 - (iii) if more than one school is nominated and no order of ranking is stated, or a wish expressed that they be ranked equally, the parent will be regarded as having ranked the

schools in the order appearing on the form (the first-mentioned being ranked the highest);
and

(iv) if a place cannot be offered at any nominated school, a place will be offered at an alternative school.

7. All preferences expressed on the CAF are valid applications. The governing body of an academy, foundation or VA school can require parents who wish to nominate, or have nominated, their school on the CAF, to provide additional information on a supplementary form only where the additional information is required for the governing body to apply their oversubscription criteria to the application. Where a supplementary form is required it will be sent to the parents by the governing body for completion and returned to the school.
8. Where a school receives a supplementary form it will not be regarded as a valid application unless the parent has also completed a CAF and the school is nominated on it. Where supplementary forms are received directly by the school then the school must inform the LA immediately so it can verify whether a CAF has been received from the parent and, if not, the LA will contact the parent and ask them to complete a CAF. Under the requirements of the scheme, parents must not be under any obligation to complete an individual school's supplementary form where this is not required for the Foundation VA or Academy governing body to apply their oversubscription criteria.
9. Any school which operates criteria for selection by ability or aptitude must ensure that its arrangements for assessing ability or aptitude, to enable decisions to be made on nominations, conform to the timing requirements of the scheme as set out in Schedule 2 (no School in Gateshead operates criteria for selection-based ability or aptitude).

Submitting Applications (CAF)

10. Completed CAFs must be returned to the LA by 15 January 2018. It will be the responsibility of parents to ensure that CAFs are returned to the LA, on-line or in paper by the closing date.

Determining offers in response to the Common Application Form

11. The LA will act as a clearing house for the allocation of places by the relevant admission authorities in response to the CAF's received. The LA will only make any decision with respect to the offer or refusal of a place in response to any preference expressed on the CAF where:
 - (a) it is acting in its separate capacity as an admission authority, or
 - (b) an applicant is eligible for more than one place and is allocated a place at the highest ranked school, or
 - (c) an applicant is not eligible for a place at any school that the parent has nominated.

The LA will allocate places in accordance with the provisions set out in paragraph 17 of this Schedule.

12. Completed application forms must be returned to the home LA by the closing date of 15 January 2018.
13. Completed application forms that are received after the closing date will be considered as 'late' unless exceptional circumstances apply except that the procedure must not prevent the proper processing under the Scheme of those application forms received on time refer to paragraph 23 in part 2 of this scheme.

14. The LA will process all application forms. Any completed application forms must be treated as a confidential communication between the parent and the LA. All ranked applications received by the closing date will be considered before any ranked applications received after the closing date unless exceptional circumstances apply.
15. **By 29 January 2018** the LA will notify the admission authority for each of the schools of every nomination that has been made for that school, including all relevant details and any supplementary information received by this date which schools require in order to apply their oversubscription criteria. Where parents have nominated a school outside the Gateshead LA area, then Gateshead LA will also notify the relevant maintaining authority by this date.
16. **By 28 February 2018** the admission authority for each school will consider all applications for their school and apply the school's oversubscription criteria (if appropriate) and provide the LA with a list of all potential offers in ranked order according to the school's oversubscription criteria.
17. **By 12 March 2018** the LA will match the above lists against the ranked lists of the other schools nominated and:
 - Where the child is eligible for a place at the parents' first preference school, that school will be allocated to the child.
 - Where the child is eligible for a place at only one of the preferred schools, a place at that school will be offered.
 - Where the child is eligible for a place at two or more of the preferred schools, they will be offered a place at the school that is ranked the highest on the CAF for which they are eligible and any lower offered will be disregarded.
 - Where the child is not eligible for a place at any of the ranked schools, the child will (if places are still available) be allocated a place at the Community catchment school, or if this is not available at the next nearest appropriate Community school with a vacancy, measured as the crow flies from the centre of the parental residence to the main entrance of the school.
 - The LA will allocate a school place to those pupils who have not submitted a CAF after all other pupils who submitted a CAF have been considered. The LA will allocate a place at the appropriate community catchment school or if this is not available at the next nearest appropriate community school, with a vacancy, measured, as the crow flies, from the centre of the parental residence to the main entrance of the school,
18. **By 16 March 2018** the LA will provide other LA's with a first indicative list of offers and refusals for Gateshead schools for children resident in their LA areas.
19. **By 11 April 2018** the LA will inform its infant, junior & primary schools and academies of the pupils to be offered places at their schools

National Offer Day

20. **On or around 16 April 2018** parents will be notified by email if they applied online that they are being offered a place at the allocated school. If parents completed a paper application form, a letter will be posted 2nd class informing them of the school place allocated (parents that applied online will also receive this letter confirmation).

This letter will give the following information:

- The name of the school at which a place is offered;
- The reasons why the child is not being offered a place at any of the other higher ranked schools nominated on the CAF;
- Information about their statutory right of appeal against the decisions to refuse places at the other nominated schools and waiting list procedures;
- Inform parents of the date they should accept the school place offered.
- Invite parents to write to the LA if they want to be considered for any places that might become available in the re-allocation process on 11 May 2018 for those schools nominated on the CAF at which they were refused a place.
- Contact details to obtain an appeal form for higher ranked schools on the CAF for which they were not offered a place

The letter will not inform parents of places still available at other schools.

- 21. 30 April 2018** - the deadline for parents to accept the place offered. If parents do not respond by this date it will be assumed that they have accepted the place, however the LA will continue to pursue parents for written confirmation of acceptance for oversubscribed schools.

Where parents have not returned their acceptance slip for oversubscribed schools the LA will give the parent a further opportunity to respond however, the LA will explain that the offer may be withdrawn if they do not respond.

22. Waiting Lists and reallocation of places 11 May 2018

The LA will maintain waiting lists for all oversubscribed schools in Gateshead.

Parents may request in writing for their children to be placed on a waiting list at any school at which they have been refused a place. Parents may be informed of the position their child occupies on the list, however individual positions may change on a regular basis due to the addition or deletion of children to the list or changes in the admission criteria applied to individual applications.

A child's position on any waiting list will be determined using the admission criterion for the school in question. However children who are the subject of a direction to admit by the LA or who have been referred for admission and have been allocated a place through the Fair Access Protocol will take precedence over any child on the waiting list.

The LA will maintain waiting lists for all oversubscribed schools in Gateshead. Voluntary Aided schools and Academies will inform the LA where children shall be placed on the waiting list for their respective schools.

If vacancies occur after 16 April 2018 the first allocation of places will take place on 11 May 2018 for all relevant schools followed by subsequent allocations, if found to be necessary, at weekly intervals on the Friday of each week.

Where a child may be eligible for an offer from more than one school or academy waiting list then the offer made will be for the school or academy that was ranked highest by the parent on the CAF.

On 11 May 2018 the LA reallocates any places that have become available since 16 April 2018 in accordance with the schools admission criteria. The waiting list will be compiled from those children whose parent/carer has written to the LA requesting to be placed on the waiting list for the school/academy in question. This list will include the following children:

- Those who applied late after 15 January 2018 but before 16 April 2018 and who did not receive an offer for a school choice which was ranked higher on the CAF than the school they were offered. Such applicants may be placed on the waiting list for all schools nominated on the CAF at which they have been refused a place.
- Those who have not been offered a place at any of the schools they nominated on the CAF.
- Where a parent has been offered a place at a school which they did not nominate of the CAF, they may be placed on the waiting list for all schools they did nominate on the CAF.
- Those who have been offered a place at a school nominated on the CAF, but were refused a place at a school ranked higher on the CAF than the school they were offered. For example, where a parent has been allocated a place at their second ranked school, they may be placed on the waiting list of their first ranked school but not their third and so on.
- Parents who have submitted a new application (accepted for exceptional reasons only i.e. moved house into the area) for consideration including those for children in public care as defined by the admission policy and children requiring placement through the Fair Access protocol.

Parents who write to request a new school not originally named on the CAF following the allocation date on 16 April 2018 and who do not have exceptional reasons as described above will NOT be placed on the waiting list for that new school until 18 May 2018, this is after the first reallocation of places on 11 May 2018.

From 18 May 2018 the waiting list will be opened to all new requests.

Part 2 - Late Applications

- 23.** The closing date for applications in the normal admissions round is **15 January 2018**.

As far as is reasonably practicable applications for places in the normal admissions round that are received late for exceptional reasons will be accepted provided they are received by 23 February 2018. Examples of what will be considered as a valid exceptional reason include: where a family has just moved into the area or is returning from abroad (proof of ownership or tenancy of a Gateshead property will be required in these cases). Other circumstances will be considered and each case decided on its own merits.

Changing of preferences received after 16 April 2018

- 24.** Parents submitting requests to change their preferences, from those originally ranked on the CAF, will not be classed as late applications and may only be considered if 'exceptional circumstances' apply such as those examples described in paragraph 23 above. If no such exceptional circumstances apply the LA will continue to proceed with those original preferences ranked on the CAF for the purposes of the allocation of places on the 16 April 2018. In these circumstances such applications may only be considered if vacancies exist after all on time applicants who have ranked the school on their CAF have been allocated a place.

Late applications received after 23 February 2018

25. Applications received after 23 February 2018, will be classed as late and will not be processed until after 16 April 2018. Parents will, nevertheless, receive an offer of a school place on 16 April 2018 according to the terms of this scheme.

No application received by 16 April 2018

26. Where no CAF is submitted the child will, on 16 April 2018, be offered a place at their community catchment school if there are places available. If no places are available at the catchment school, a place will be offered at the next nearest community school with places available, measured, as the crow flies, from the centre of the parental residence to the main entrance of the school. The LA will be aware which parents this applies to as a result of liaison with nursery school and private providers.

Applications received after 16 April but before 11 May 2018

27. Applications made direct to the school or academy must be forwarded to the LA immediately. The LA will offer a place on 11 May 2018 in accordance with the scheme, at the school ranked highest on the CAF at which there is a vacancy, or if this is not possible, at their community school, or if this school is also full at the next nearest community school measured as the crow flies from the centre of the parent residence to the main entrance of the school. However please note that new applications submitted during this period from parents who have already submitted a CAF in the normal admission round will not be considered until 18 May 2018 in accordance with paragraph 22 above.

Applications received after 16 April 2018 but before 31 August 2018

28. The LA will continue to co-ordinate admissions to all relevant schools in Gateshead up to 31 August 2018.

Applications received after **16 April 2018**, for first year of entry must be made on the CAF and sent to the LA, who will:

- Determine any application for a community school for which it is the admission authority and
 - If the application is for a Foundation, Academy, Trust or voluntary aided school refer the application to the governing body of the school, which will make a determination and notify the LA of their decision. The LA will notify the parent. Parents who are refused admission will be offered a right of appeal and informed about the waiting list procedures.
 - If any parents approach foundation, Academy, Trust or voluntary aided schools directly about a casual admission, the governing body must ensure that the parent completes a CAF (if they have not already done so). The CAF should be sent to the maintaining LA as soon as practically possible, along with the governing body's decision on the application. The governing body will notify the maintaining LA of its decision who will inform the Parent and, if the parent is refused a place, the right of appeal will be offered.
 - Please note, new applications/requests submitted after 16 April 2018 from parents who have already submitted a CAF in the normal admissions round and do not have exceptional reasons may not be considered until 18 May 2018 in accordance with paragraph 22 above.
29. The LA will keep track of any pupils who apply for admission from 16 April 2018 but before 31 August 2018 and intervene as appropriate to ensure that they are allocated a school place without undue delay.

Part 3 – In Year Applications

30 'In Year' applications are those applications received after 31 August 2018 for places in any year group requesting admission during the academic year 2018/19.

31 Parents should apply for a place in a Gateshead school directly through Gateshead LA.

In Year applications must be made on the Gateshead School Transfer Form. 'n Year applications are those applications received after 31 August 2018 for places in any year group requesting admission during the academic year 2018/19. Please note that parents who have been refused a place in the normal allocation round for the first year of entry to primary, infant or junior schools for admission from 2018 and have been refused a place by the independent appeal panel may not reapply for the same year of entry unless they can demonstrate there has been a significant and material change in their circumstances that relate to the question of admission.

32 The Gateshead School Transfer Form for 'in year' admissions is available from the Education Support Service at Dryden Centre, Evistones Road, Gateshead.

33 Gateshead Local Authority will process all School Transfer forms for Gateshead schools and inform parents of the outcome of their application even if the school is a voluntary aided school or academy.

34 The local authority is unable to process applications for schools where the date that the school place is required from, is more than 6 weeks from the date of the application (Service and Crown personnel are exempt).

35 Children must be resident in the country before a School Transfer Form can be considered (Service and Crown personnel are exempt).

36 School places cannot be allocated on the basis of intended future changes of address unless a house move has been confirmed through the exchange of contracts or a rental agreement. The admission authority reserves the right to seek further documentary evidence to support the claim to residence.

Responding School Transfer Forms

37 If the application form is for a Voluntary Aided school, the Local authority will refer the application to the Governing Body of the school. In the case of applications for schools outside Gateshead, the LA will request that parents apply directly to the relevant admission authority. We do not process 'in year' application forms for schools outside Gateshead.

38 All primary schools within Gateshead must respond to the Local Authority (LA) within 10 days of receiving the School Transfer Form, informing the LA of the availability of a place. If there is a place available parents must be notified within 20 days from the date the application was received.

39 Where places are not available at the highest ranked school the LA will co-ordinate with the second and third preference schools until a place can be offered at one of the preferences subject to the availability of places and admission criteria.

40 If a pupil is not on the roll of a Gateshead school and a place cannot be offered at any of the nominated schools, the parent will be informed of places available at other schools in the area.

41 If there are more applications than places available the published oversubscription admission criteria must be applied.

- 42 Pupils will only be refused a place at a school if one of the statutory reasons in the school admissions code applies.
- 43 Pupils should not be placed outside the normal age group without written recommendation from a professional within Care, Wellbeing and Learning at Gateshead Council. This could include an Education Psychologist, a Professional Officer working with Gifted and Talented children etc.
- 44 The LA will keep track of any pupils who apply for 'in year' admissions, and intervene as appropriate to ensure that they are placed in a school without undue delay particularly in respect of Children in Care and disadvantaged children moving into the area i.e. Gypsy, Roma and Traveller children.

Determining Offers in response to the School Transfer Form

- 45 Pupils living in Gateshead and applying for a school in the area (including Voluntary Aided Schools and Academies) The LA will notify the parent verbally if a place is available for Schools and Academies in Gateshead. However, if a place is not available the parent will be notified of this in writing.
- 46 **Pupils living in Gateshead applying for a school out of the area.** The home authority (Gateshead) will request that the parent refers directly to the relevant admission authority to process their request.
- 47 **Pupils living outside Gateshead applying to a Gateshead school.** The home authority must ask the parent/carer to contact Gateshead LA to complete a School Transfer Form to confirm the availability of a place. Gateshead LA will liaise with the parents regarding the outcome of their request.
- 48 **Acceptance of a school place.** Parents will be expected to contact the school offered to accept or decline the offer within 2 weeks. Failure to do so may result in the school place being withdrawn and offered to the next child on the waiting list if appropriate.
- 49 **Waiting Lists.** The LA will hold the waiting list for oversubscribed Gateshead schools. If your child is refused a place at the school you requested, you may request that your child's name is placed on the waiting list for this school. The LA will maintain school waiting lists until the end of December 2018, following this date they will be sent to the individual schools to maintain. A child's position on a waiting list will be determined using the admission criterion for the school in question however children who are the subject of a direction to admit by the LA or who have been referred for admission and have been allocated a place through the Fair Access Protocol will take precedence over any child on the waiting list.

Timescales for processing 'In Year' Applications

School Transfer form received by the Education Support Service	Process commences, unless place is not required until a date more than 6 school weeks away (extended for service families).
Within 5 school days of receipt of application	Availability of place(s) at any nominated community and VA schools checked by the Education Support Service
	The LA notifies the Governing Bodies of any nomination for Academy, Foundation, Trust and VA Schools.
Within 10 school days of receipt of notification of an application	The Governing Bodies of any nominated Academy, Foundation, Trust and VA Schools respond to the Education Support Service request.

<p>Within 20 school days of receipt of application by the Education Support Service</p>	<p>Gateshead Council will notify the parent by telephone if a place is available for all Schools and Academies in Gateshead. However, if a place is not available the parent will be notified of this in writing, including information about appeals and waiting lists, where appropriate.</p>
<p>Within 2 weeks of the date of a school place being offered</p>	<p>The school must receive confirmation of acceptance of the place from the parent.</p>

SCHEDULE 2

Timetable of Primary Co-ordinated scheme 2018 First Year of Entry

- Friday 8 September 2017:** Common Application Form made available to parents online or paper copy (on request only). Schools/Academies receive their information packs for distribution to parents.
- Monday 15 January 2018:** On-Line applications or paper form, together with any supplementary forms (as required) to be submitted to the LA.
- Monday 29 January 2018:** Details of applications to be sent to VA schools/Academies, and other LA's.
- Wednesday 28 February 2018:** VA schools and Academies provide the LA with ranked lists of applicants.
- Monday 12 March 2018:** The LA will match the ranked lists of all the schools/Academies and allocate places in accordance with paragraph 17 of Schedule 1.
- Friday 16 March 2018:** The LA will provide other LA's with an indicative list of offers for relevant children.
- Wednesday 11 April 2018:** By this date the LA will notify schools/Academies which parents have been offered places at their schools.
- Monday 16 April 2018:** Notifications sent to parents.
- Monday 30 April 2018:** Last date for offers to be accepted by parents.
- Friday 11 May 2018:** Any places that have become available are reallocated to parents in accordance with paragraph 22 of schedule 1 of this scheme.

Waiting lists maintained by the LA until end of the autumn term December 2018

Gateshead Council Community Secondary Schools and Academies Admission Policy 2018/2019

We allocate places at Gateshead Community Secondary schools using the policy below and co-ordinate the admissions to Gateshead schools using the co-ordinated admission scheme.

The admission policy is as follows:

- Secondary schools will normally admit pupils between the ages of 11 and 16, or 11 and 19, depending upon the school.
- We will accept pupils up to the school's agreed planned admission number for the year group unless we feel there are lawful grounds not to do so.

Oversubscription Criteria

We will consider applications from parents who have named the school as any ranked preference on their application form this is called the equal preference system. If there are more applications for the number of places available at the school we will then allocate places by using the following order of priority:

- (1) Children in Public Care (as defined under Section 22 of the Children Act 1989) including a child who was previously "looked after" but ceased to be so because they were adopted (or became subject to a child arrangements order or special guardianship order (see definition*).
- (2) Children who live in the school's catchment area.
- (3) Children who will have a brother or sister at the secondary school during the coming academic year.
- (4) Other children who have exceptional medical and social grounds see point 1 below
- (5) All other children.

(*see definitions of our criteria in priority 1 and 3 above in our parent's information booklet and at www.gateshead.gov.uk)

Point 1- We can consider individual applications in cases involving exceptional medical or social needs. This kind of application must be supported in writing from relevant registered health professionals i.e. a doctor or social worker. The evidence must demonstrate why the chosen school is the most suitable and what difficulties would be caused if the child were to attend another school. We will not consider such applications if the relevant evidence is not provided. If provided the evidence will be assessed by the LA Admission Panel. No assumption should be made that submission of the relevant evidence will, in itself, be sufficient to allocate a place.

Tie breaker

If within any of the above criteria there are more applicants than places available priority will be given to those children based on the distance they live from the school, measured 'as the crow flies' in a straight line from the centre of the home residence to the school's main entrance. Children living nearest to the school will have priority. Where two or more applicants share the exact same distance, a random allocation process will be used to determine the ranked order of the applications in question.

Sibling link

For your child to receive priority because of an older brother or sister in the sixth form at the school, the brother or sister must have been at the school at the start of Year 11.

Address

For the purposes of deciding whether a child lives in the catchment area of a school we will use the parent or guardians address or the address of a relevant adult who has parental responsibility, as defined under the 1989 Children Act, for the child.

Waiting list

If places become available we will consider all relevant applications using a waiting list. The waiting list will be maintained by the council from the start of the academic year and be kept for the rest of the academic year. All applicants on the waiting list are placed according to the admission criteria and priorities set out above. However children who are the subject of a direction to admit by the LA or who have been referred for admission and have been allocated a place through the Fair Access Protocol will take precedence over any child on the waiting list.

Important Dates

From Friday 8 September 2017 Gateshead residents can apply on-line at www.gateshead.gov.uk Applications must be submitted by **Tuesday 31 October 2017**.

If your child attends a Gateshead Primary/Junior School and is due to transfer to secondary school you will receive information via your child's school on Friday 8 September 2017.

If your child does not attend a Gateshead school but lives in Gateshead, you can apply online at www.gateshead.gov.uk/schooladmissions. Alternatively any Gateshead resident can request a paper application form from The School Admissions Team on telephone number 0191 433 2757. Paper applications must be submitted by **Tuesday 31 October 2017**.

If you live outside Gateshead and want to apply to a Gateshead school you must obtain an application form from your own Council and return it to them by their closing date or apply through their on-line application system. However you must still consider the information in Gateshead Council's "Admission to Secondary school" booklet so that you know what the admission arrangements are to Gateshead schools. This information is available at www.gateshead.gov.uk. Your own Council will send us notification of your application and they will let you know the final allocation of a school place for your child.

Offer Date

A letter will be sent to parents resident in Gateshead on or around Thursday 1 March 2018 informing them of the school they have been offered for their child. Gateshead residents who apply on-line are also informed by e-mail on 1 March 2018.

General Information and definitions

For information on our admission arrangements and definitions of the terms used in this policy please refer to our "Admission to Secondary school" booklet for 2018 at www.gateshead.gov.uk The co-ordinated admission scheme and Catchment areas referred to in this policy can also be viewed at School Admissions Team, Dryden Centre, Evistones Road, Gateshead, NE9 5UR and on our website given above.

**Gateshead Co-ordinated Admissions Scheme
Secondary Schools September 2018**

Introduction

1. This Scheme is made by Gateshead Council under the Education (Co-ordination of Admission Arrangements) (Secondary) (England) Regulations 2002 and applies to all Secondary schools in Gateshead.

Interpretation

2. In this Scheme

'The LA' means Gateshead Council acting in their capacity as local authority;

'The LA area' means the area in respect of which the LA is the local authority;

'Primary education' has the same meaning as in section 2(1) of the Education Act 1996;

'Secondary education' has the same meaning as in section 2(2) of the Education Act 1996;

'Primary school' has the same meaning as in section 5(1) of the Education Act 1996;

'Secondary school' has the same meaning as in section 5(2) of the Education Act 1996;

'School' means a community, foundation or voluntary school (not a special school) which is maintained by the LA;

'Foundation schools' means such of the schools as are foundation schools;

'VA schools' means such of the schools as are voluntary-aided schools;

'Academy' means such of the schools have academy status;

'CTC' means City Technology College (Emmanuel College in Gateshead)

'Admission authority' in relation to a community or voluntary controlled school means the LA and, in relation to a VA school or Academy means the governing body of that school.

'The specified year' means the school year beginning at or about the beginning of September 2018;

'Academic year' means a period commencing 1 September and ending 31 August;

'Admission arrangements' means the overall procedure, practices, criteria, and supplementary information which govern the procedures and decision making for the purposes of admitting pupils to the school;

'CAF' means the common application form that must be used by the parent to apply for a school place for the normal admission round (first year of entry);

'Home LA' means the local authority in which the child resides;

'Equal preference System' means all preferences for each school listed by parents on the CAF are considered against the schools oversubscription criterion without reference to the parental ranking nominated on the CAF. However where a child may be eligible for a place at more than one school ranked on their CAF, then the rankings given will be used to determine the final single offer that will be made by selecting the school that was ranked highest on the CAF for which the child is eligible for an offer.

'Parent or Legal Guardian' means any person who holds parental responsibility, including carers, as defined under the 1989 Children Act and with whom the child normally resides.

'In Year Admissions' means any application for a place in any year group for secondary school received during the academic year commencing in September 2018.

'Eligible for a place' means that a child has been placed on a school's ranked list at such a point which falls within the school's published admission number or is eligible following determination under the Fair Access protocol.

Commencement and extent

This scheme applies in relation to the admission arrangements for the schools and Academies for the admission year 2018/2019 (the specified year). The LA will include in its admission arrangements for the specified year the provisions set out in Schedule 1 of this scheme, or provisions having the same effect. The governing body of each of the VA and foundation schools will include in its admission arrangements for the specified year the provisions set out in the Schedule, so far as relevant to that school, or provisions having the same effect.

The Scheme

1. The Scheme shall be determined in accordance with the provisions set out in Schedule 1 and processed in accordance with the timetable set out in Schedule 2.
2. The Scheme shall apply to every secondary school in the LA area including academies, as identified in Appendix 1 (except special schools and the Emmanuel College).
3. The Scheme will also include applications from parents seeking admission to Gateshead schools who live within the following neighbouring LA's:

Durham, Newcastle, Northumberland, South Tyneside and Sunderland.

We will also co-ordinate our admission process with any other admission authorities where relevant.

SCHEDULE 1

Part 1 -The Scheme

1. A standard application form known as the Common Application Form (CAF) will be used for applications to school for the normal year of entry in the specified year. A standard application form known as a School Transfer Form will be used for 'in year' applications made after the commencement of the academic year in September 2018.
2. The CAF will be used for the purpose of admitting pupils into first year of secondary education in the academic year 2018/19.

3. The CAF must be used as a means of expressing up to 3 preferences by parents resident in the LA area wishing to express a preference for their child to:
- a) be admitted to a school within the LA area (Academies, Community, Voluntary aided and Community controlled schools)
 - b) be admitted to a school located in another LA's area (including Voluntary Aided, Academies and foundation schools).
4. **The Common Application Form will:**
- a) allow parents to express up to 3 preferences by naming them in rank order of preference and where relevant for schools outside Gateshead LA area.
 - b) invite parents to give their reasons for each preference.
 - c) specify the closing date and where the application form must be returned, in accordance with paragraph 10.
5. **The LA will make appropriate arrangements to ensure that:**
- a) the CAF is available on request from the LA and on-line at www.gateshead.gov.uk until the closing date and;
 - b) every parent resident in the LA area who has a child eligible to commence secondary education receives a written explanation of how to apply and an explanation of the key features of the admission procedures and co-ordinated admission scheme and has access to the CAF on-line and paper copy (on request only).
 - c) every parent whose application falls within the category of an 'in year' admission receives a copy of the School Transfer Form and an explanation of the admission procedures and co-ordinated admission scheme.
6. **The LA will take all reasonable steps to ensure that:**
- (iv) **applicants will receive no more than one offer of a school place and;**
 - (v) a place will be offered at the highest ranked school for which they are eligible under the admission criteria; and
 - (vi) If more than one school is nominated and no order of ranking is stated, or a wish expressed that they be ranked equally, the parent will be regarded as having ranked the schools in the order appearing on the form (the first-mentioned being ranked the highest); and
 - (iv) if a place cannot be offered at any nominated school, a place will be offered at an alternative school.
7. All preferences expressed on the CAF are valid applications. The governing body of an academy, foundation or VA school can require parents who wish to nominate, or have nominated their school on the CAF, to provide additional information on a supplementary form, only where the additional information is required for the governing body to apply their oversubscription criteria to the

application. Where a supplementary form is required it will be sent to the parents by the governing body for completion and returned to the school.

8. Where a school receives a supplementary form it will not be regarded as a valid application unless the parent has also completed a CAF and the school is nominated on it. Where supplementary forms are received directly by the school then the school must inform the LA immediately so it can verify whether a CAF has been received from the parent and, if not, the LA will contact the parent and ask them to complete a CAF. Under the requirements of the scheme, parents must not be under any obligation to complete an individual school's supplementary form where this is not strictly required for the governing body to apply their oversubscription criteria.
9. Any school which operates criteria for selection by ability or aptitude must ensure that its arrangements for assessing ability or aptitude, to enable decisions to be made on nominations, conform to the timing requirements of the scheme as set out in Schedule 2. (please note, no Community or Voluntary Aided School in Gateshead operates criteria for selection-based ability or aptitude).

Submitting Applications (CAF)

10. Completed CAF's are to be returned to the LA by 31 October 2017. It is the responsibility of parents to ensure that CAF's are returned directly to the LA, on-line or in a paper format by the closing date.

Determining offers in response to the Common Application Form

11. The LA will act as a clearinghouse for the allocation of places by the relevant admission authorities in response to the CAF's received. The LA will only make any decision with respect to the offer or refusal of a place in response to any preference expressed on the CAF where:
 - (a) It is acting in its separate capacity as an admission authority, or
 - (b) An applicant is eligible for more than one place and is allocated a place at the highest ranked school or
 - (c) An applicant is not eligible for a place at any school that the parent has nominated.

The LA will allocate places in accordance with the provisions set out in paragraph 18 of this Schedule.

12. Completed application forms must be returned to the home LA by the closing date of 31 October 2017.
13. Completed application forms, which are received after the closing date will be considered as **LATE** unless 'exceptional circumstances' apply, except that the procedure must not prevent the proper processing under the Scheme of application forms received on time.
14. The LA will process all application forms; any completed application forms must be treated as a confidential communication between the parent and the LA. All ranked applications received by the closing date will be considered before any ranked applications received after this closing date unless exceptional circumstances apply.
15. **By 20 November 2017** the LA will notify the admission authority for each of the schools of every nomination that has been made for that school, including all relevant details and any supplementary information received by this date which schools require in order to apply their oversubscription

criteria. Where parents have nominated a school outside the LA area, then the LA will also similarly notify the relevant maintaining authorities by this date.

16. **By 8 January 2018** the admission authority for each school will consider all applications for their school and apply the school's oversubscription criteria (if appropriate) and provide the LA with a list of all potential offers in ranked order according to the school's oversubscription criteria.
17. **By 29 January 2018** neighbouring LA's will exchange information of school offers to be made at schools in their area for Gateshead residents and inform Gateshead LA and vice versa.
18. **By 5 February 2018** the LA will match these ranked lists against the ranked lists of the other schools nominated and:
 - Where the child is eligible for a place at the parents first preference school, that school will be allocated to the child
 - Where the child is eligible for a place at only one of the preferred schools, a place at that school will be offered to the child.
 - Where the child is eligible for a place at two or more of the preferred schools, they will be offered a place at the school that is ranked the highest on the CAF for which they are eligible and any lower offers will be disregarded.
 - Where the child is not eligible for a place at any of the ranked schools, the child will be allocated a place at their community catchment school (if places are still available), or if places are not available at this school, a place will be offered at the next nearest appropriate community school with a vacancy, measured as the crow flies from the centre of the parental residence to the main entrance of the school.
 - The LA will allocate a school place to those pupils who have not submitted a CAF after all other pupils who submitted a CAF have been considered. The LA will allocate a place at the appropriate community catchment school or if this is not available at the next nearest appropriate community school, with a vacancy, measured as the "crow flies" in a straight line from the centre of the parental residence to the main entrance of the school.
19. **On 23 February 2018** the LA informs its secondary schools of the pupils to be offered places at their schools, and provides an update to other LA's of places in Gateshead schools to be offered to their residents.

Offer Day

20. **On Thursday 1 March 2018** parents will be notified by email if they applied online that they are being offered a place at the allocated school. A letter will also be posted to Gateshead residents on or around this date informing them of the school place allocated (parents that applied online will also receive this letter confirmation).

This letter will give the following information:

- The name of the school at which a place is offered
- The reasons why the child is not being offered a place at any higher ranked school(s) nominated on the CAF
- Information about their statutory right of appeal against the decisions to refuse places at the other nominated schools and waiting list procedures

- Inform parents of the date they should accept the school place offered
- Invite parents to write to the LA if they want to be considered on the school waiting list for any places that might become available in the reallocation process on 23 March 2018 for those schools nominated on the CAF at which they were refused a place
- Contact details for the school (in the case of nominated foundation Academy and VA schools where they were not offered a place and all relevant LA's), so that they can lodge an appeal

The letter will not inform parents of places still available at other schools.

- 21. 15 March 2018** - the deadline for parents to accept the place offered. If parents do not respond by this date it will be assumed that they have accepted the place, however the LA will continue to pursue parents for written confirmation of acceptance for oversubscribed schools.

Where parents have not returned their acceptance slip for oversubscribed schools the LA will give the parent a further opportunity to respond however, the LA will explain that the offer may be withdrawn if they do not respond.

22. Waiting Lists and reallocation of places 23 March 2018

The LA will maintain waiting lists for all oversubscribed schools in Gateshead.

Parents may request in writing for their children to be placed on a waiting list at any school at which they have been refused a place. Parents may be informed of the position their child occupies on the list, however individual positions may change on a regular basis due to the addition or deletion of children to the list or changes in the admission criteria applied to individual applications.

A child's position on any waiting list will be determined using the admission criterion for the school in question however children who are the subject of a direction to admit by the LA or who have been referred for admission and have been allocated a place through the Fair Access Protocol will take precedence over any child on the waiting list. Voluntary Aided schools will inform the LA where children shall be placed on the waiting list for their school. Parents, who wish to go on waiting lists for any school operating 'random allocation' in Gateshead as their tie breaker mechanism, should be clear that any single place that becomes available at such schools will be subject of a separate random selection process within each oversubscription category within the policy.

The first reallocation of places will take place on 23 March 2018 for all relevant schools and academies followed by subsequent reallocations, if found to be necessary, at weekly intervals on the Friday of each week thereafter.

Where a child may be eligible for an offer from more than one school waiting list then the offer made will be for the school that was ranked highest by the parent on the CAF.

On 23 March 2018 the LA reallocates any places that have become available since 1 March 2018 in accordance with the schools admission criteria. The waiting list will be compiled from those children whose parents/carer has written to the LA requesting to be placed on the waiting list for the school in question. This list may include the following children:

- Those who applied late after 31 October 2017 but before 1 March 2018 and who did not receive an offer for a school choice which was ranked on the CAF. Such applicants may be placed on the waiting lists for all schools nominated on the CAF at which they have been refused a place.
- Those who have not been offered a school place at any of the schools they nominated on the CAF.

- Where a parent has been offered a place at a school, which they did not nominate on the CAF they may be placed on the waiting list for all the schools they did nominate, on the CAF.
- Those who have been offered a place at a school nominated on the CAF, but were refused a place at a school ranked higher on the CAF than the school they were offered. For example, where a parent has been allocated a place at their second ranked school, they may be placed on the waiting list of their first ranked school but not their third and so on.
- Parents who have submitted a new application (accepted only for exceptional reasons i.e. moved house into the area) for consideration including those for children in public care ('Looked After' children as defined in the admission policy) and children requiring placement through the in year Fair Access protocol.

Parents who write to request a new school not originally named on the CAF following the allocation date on 1 March 2018 and who do not have exceptional reasons as described above, will not be placed on the waiting list for that new school until 30 March 2018, this is after the first reallocation of places on 23 March 2018.

From 30 March 2018 the waiting list will be opened to all new requests.

Part 2 –Late Applications

- 23.** The closing date for applications in the normal admissions round is **31 October 2017**.

As far as is reasonably practicable applications for places in the normal admissions round that are received late for exceptional reasons only may be accepted provided they are received by 5 January 2018. Examples of what will be considered as a valid reason include: a family that has just moved into the area or is returning from abroad (proof of ownership or tenancy of a Gateshead property will be required in these cases) or for UK service personnel who have been relocated and have an intended address. Other circumstances will be considered and each case is decided on its own merits based on the evidence provided.

Change of Preferences received after 31 October 2017

- 24.** Parents submitting applications to change their preferences, from those originally ranked on the CAF, will also be classed as 'late' and may only be considered if exceptional circumstances apply such as those examples described in paragraph 23 above. If no such exceptional circumstances apply the LA will continue to proceed with the original preferences ranked on the CAF for the purposes of the allocation of places on the 1 March 2018. In these circumstances such applications may only be considered if vacancies exist after all on time applicants who have ranked the school on their CAF and are eligible for an offer have been allocated a place.

Late Applications received after 5 January 2018

- 25.** Applications received after 5 January 2018 will NOT be considered until after 1 March 2018. Parents will, nevertheless, receive an offer of a school place on 1 March 2018 according to the scheme.

No application form received by 1 March 2018

- 26.** Where no CAF is submitted the child will, on 1 March 2018, be offered a place at their community catchment school if there are places available. If no places are available at the catchment school, a place will be offered at the next nearest community school with places available, measured 'as the crow flies', from the centre of the parental residence to the main entrance of the school. The LA will be aware which parents this applies to as a result of liaison with junior and primary schools.

Applications received after 1 March 2018 but before 23 March 2018

27. Applications made direct to any school or academy on the CAF must be forwarded to the LA immediately. The LA will offer a place on 23 March 2018 at the school/academy ranked highest on the CAF at which there is a vacancy, or if this not possible at their community catchment school, or if this school is also full at the next nearest appropriate community school with a vacancy (as defined in paragraph 18), measured 'as the crow flies' from the centre of the parental residence to the main entrance of the school. However, please note, new applications submitted after 1 March 2018 from parents who have already submitted a CAF in the normal admission round will not be considered until 30 March 2018 in accordance with paragraph 22 above.

Applications received after 23 March 2018 but before 31 August 2018

28. The LA will continue to co-ordinate admissions to all relevant schools in Gateshead up to 31 August 2018.

Applications received after 23 March 2018 should be made on the CAF and sent to the LA, who will:

- Determine any application for a community or controlled school for which it is the admission authority; and
 - If the application is for a Foundation, Academy, Trust or Voluntary Aided or school, refer the application to the governing body of the school, which will make a determination and notify the LA who will then notify the parent. Parents who are refused admission will be offered a right of appeal.
 - If any parents approach foundation, Academy, or voluntary aided schools directly about a casual admission, the governing body must ensure that the parent completes a CAF (if they have not already done so). The CAF should be sent to the maintaining LA as soon as practically possible, along with the governing body's decision on the application. The governing body will notify the maintaining LA of its decision who will inform the Parent and, if the parent is refused a place, the right of appeal will be offered.
 - (NB new applications/requests submitted after 1 March 2018 from parents who have already submitted a CAF in the normal admissions round and do not have exceptional reasons will not be considered until 30 March 2018 in accordance with paragraph 22 above).
29. The LA will keep track of any pupils who apply after 1 March 2018 but before 31 August 2018 and intervene as appropriate to ensure that they are placed in a school without undue delay.

Part 3 – In Year Applications

30. In Year applications are those applications received after 31 August 2018 for places in any year group requesting admission during the academic year 2018/19.

31. Parents should apply for a place in a Gateshead school directly through Gateshead LA.

In year applications must be made on the School Transfer Form. In Year applications are those applications received after 31 August 2018 for places in any year group requesting admissions during the academic year 2018/18. Please note that parents who have been refused a place in the normal allocation round for the first year of entry to primary, infant or junior schools for admission from 2018 and have been refused a place by the independent appeal panel may not reapply for the same year of entry unless they can demonstrate there has been a significant and material change in their circumstances that relate to the question of admission.

32. The School Transfer Form for 'in year' admissions is available from the Education Support Service, Dryden Centre, Eviston Road, Low Fell, Gateshead, NE9 5UR.

33. Gateshead Local Authority will process all School Transfer Forms for Gateshead schools and inform parents of the outcome of their application even if the school is a voluntary aided school or academy.

34. The local authority is unable to process applications for schools where the date that the school place is required from, is more than 6 weeks from the date of the application (Service and Crown personnel are exempt).

35. Children must be resident in the country before a School Transfer Form can be considered (Service and Crown personnel are exempt).

36. School places cannot be allocated on the basis of intended future changes of address unless a house move has been confirmed through the exchange of contracts or a rental agreement. The admission authority reserves the right to seek further documentary evidence to support the claim to residence.

Responding to School Transfer Forms

37. If the application form is for a Voluntary Aided school, the Local authority will refer the application to the Governing Body of the school. In the case of applications for schools outside Gateshead, the LA will request that the parents apply directly to the relevant admission authority. We do not process 'in year' application forms for schools outside Gateshead.

38. All secondary schools within Gateshead must respond to the Local Authority (LA) within 20 school days of receiving the School Transfer Form, informing the LA of the availability of a place. If there is a place available the LA will notify parents of the outcome of the application within 5 school days of the school/academy notifying the Education Support Service of the availability of places.

39. Where places are not available at the highest ranked school the LA will co-ordinate with the second and third preference schools until a place can be offered at one of the preferences subject to the availability of places and admission criteria.

40. If a pupil is not on the roll of a Gateshead school and a place cannot be offered at any of the nominated schools, the parent will be informed of places available at other schools in the area.

41. If there are more applications than places available the published oversubscription admission criteria must be applied.
42. Pupils will only be refused a place at a school if one of the statutory reasons in the school admissions code applies.
43. Pupils should not be placed outside the normal age group without written recommendation from a professional within Care, Wellbeing and Learning at Gateshead Council. This could include an Education Psychologist, a Professional Officer working with Gifted and Talented children etc.
44. The LA will keep track of any pupils who apply for 'in year' admissions, and intervene as appropriate to ensure that they are placed in a school without undue delay particularly in respect of Children in public care and disadvantaged children moving into the area i.e. Gypsy, Roma and Traveller children.

Determining Offers in response to the School Transfer form

45. **Pupils living in Gateshead and applying for a school in the area (including Voluntary Aided Schools and Academies)** The LA will notify the parent verbally if a place is available for Schools and Academies in Gateshead. However, if a place is not available the parent will be notified of this in writing.
46. **Pupils living in Gateshead applying for a school out of the area.** The home authority (Gateshead) will request that the parent refers directly to the relevant admission authority to process their request.
47. **Pupils living outside of the Gateshead authority applying to a Gateshead school.** The home authority must ask the parent/carer to contact Gateshead LA to complete a School Transfer Form to confirm the availability of a place. Gateshead LA will liaise with the parents regarding the outcome of their request.
48. **Acceptance of a school place.** Parents will be expected to contact the school offered to accept or decline the offer within 2 weeks. Failure to do so may result in the school place being withdrawn and offered to the next child on the waiting list if appropriate.
49. **Waiting Lists** The LA will hold the waiting list for oversubscribed Gateshead Schools. If your child is refused a place at the school requested, you may request that your Child's name is placed on the waiting list for this school. The LA will maintain school waiting lists until the end of December 2018, following this date they will be sent to the individual schools to maintain. A child's position on a waiting list will be determined using the admission criterion for the school in question however children who are the subject of a direction to admit by the LA or who have been allocated a place through the Fair Access Protocol will take precedence over any child on the waiting list.

Timescales for processing In Year Applications

School Transfer Form received by the Education Support Service	Process commences, unless place is not required until a date more than 6 school weeks away (excepted for children of service personnel & crown servants)
Every Monday afternoon	All secondary transfer forms discussed at LA transfer meeting Monday afternoon
By the Friday of that week	The LA notifies the Governing Bodies of any request for a place their school/academy
Within 20 days of the school/academy being notified of the request	The Governing Bodies of any requested school/Academy must respond to The Education Support Service regarding the availability of places
Within 5 school days of the school/academy notifying the Education Support Service of the availability of places	Gateshead Council will notify the parent by telephone or email, if a place is available for all Schools and Academies in Gateshead. However, if a place is not available the parent will be notified of this in writing, including information about appeals and waiting lists, where appropriate.
Within 2 weeks of the date of a school place being offered	The school must receive confirmation of acceptance of the place from the parent.

SCHEDULE 2

Timetable of Secondary School Co-ordinated Scheme 2018

First Year of Entry

Friday 8 September 2017	Common Application Form made available to parents online or paper copy (on request only). Primary/Junior schools receive information packs to distribute to year 6 pupils.
Monday 30 October 2017:	On-line application forms, together with any supplementary forms (as required) to be submitted to School Admission Team, Dryden Centre, Evistones Road, Low Fell, Gateshead, NE9 5UR.
Monday 20 November 2017	Details of application and nominated preference to be sent to other admission authority schools and other LA's.
Monday 8 January 2018:	Foundation, Academies, and VA schools provide the LA with ranked lists of applicants.
Monday 29 January 2018:	LA's exchange information with other LA's on offer or refusal of school places.
Monday 5 February 2018:	The LA will match the ranked lists of all the schools and allocate places in accordance with paragraph 18 of Schedule 1 this scheme.
Thursday 23 February 2018:	By this date the LA will notify schools which parents have been offered places at their schools, and other LA's will be provided with an update of places in Gateshead schools that will be offered to their residents.
Thursday 1 March 2018:	Notifications sent to parents on or around this date.
Thursday 15 March 2018:	Last date for offers to be accepted by parents.
Friday 23 March 2018:	Any places that have become available are re allocated to parents from the waiting list in accordance with paragraph 22 of schedule 1 of this scheme.

Waiting lists will be maintained until end of the autumn term December 2018

Admission Authorities in the Area of Gateshead to which the Scheme applies

Community and Voluntary Controlled Schools where the LA is the Admission Authority

Heworth Grange Comprehensive School

High Lanes
Heworth
Gateshead, NE10 0PT

Kingsmeadow Community Comprehensive School

Market Lane
Dunston
Gateshead, NE11 9NX

The Scheme applies to the Governing Body as the Admission Authority for the following Academies

Joseph Swan Academy

Saltwell Road South
Gateshead, NE9 6LE

Lord Lawson of Beamish Academy

Birtley Lane
Birtley, DH3 2LP

Thomas Hepburn Community Academy

Swards Road
Felling
Gateshead, NE10 9UZ

Thorp Academy

Main Road
Ryton
NE40 3AH

Whickham School and Sports College (Academy Trust)

Burnthouse Lane
Whickham, NE16 5AR

The Scheme applies to the Governing Body as the Admission Authority for the following Voluntary Aided Academies:

Cardinal Hume Catholic School

Old Durham Road
Gateshead, NE9 6RZ

St Thomas More Catholic School

Croftdale Road
Blaydon, NE21 4BQ

TITLE OF REPORT: Proposals for School Term Dates 2018/19

REPORT OF: Sheena Ramsey, Chief Executive

Purpose of the Report

1. The report asks Cabinet to approve the School Term Dates for 2018/19

Background

2. In order to allow schools, parents and other stakeholders to plan into the future, it is necessary to agree school term dates a significant period in advance.

Proposal

3. It is proposed that the calendar for 2018/19, attached as appendix 2 to this report, be approved.

Recommendations

4. It is recommended that Cabinet agrees the proposed School Term Dates for 2018/19 as set out in appendix 2.

For the following reasons:

- (i) To allow future planning to take place.
- (ii) Make effective and efficient use of resources.

CONTACT: Jeanne Pratt extension 8644

Policy Context

1. The proposal supports the vision for Gateshead as set out in Vision 2030. It also supports the Achievement and Ambition objective as set out in Children Gateshead, the plan for children, young people and families in Gateshead.

Background

2. The Education (School Day and School Year) (England) Regulations 1999 (SI 1999 No. 3181) require schools to have at least 380 half-day sessions (190 contact days with pupils and 195 days for staff) in each school year. This is consistent with the 195 days a year required by a teacher's statutory conditions of service: the additional five days are for continual professional development.
3. The term dates for Community Voluntary controlled and Special Schools are currently determined by the local authority (LA) whilst voluntary-aided schools and Academies are decided by the governing body of each school. This means that Governing Bodies of Voluntary Aided schools and Academies can depart from the LA term dates if they wish. Many Voluntary Aided schools can and do depart from those dates determined by the LA and there is no requirement to consult, however, such schools are required to act reasonably when setting their dates.
4. The Deregulation Act 2015 provides the responsibility for determining term dates to pass to school governing bodies for community, voluntary controlled, community special and maintained nursery schools. This provision has, however, not yet come into force.
5. Academies including free schools can set their own term dates which will be published on the Council's website if we are advised, though there is no requirement for academies to consult.
6. The Local Government Association (LGA) Standing Committee on the School Year has previously circulated proposed School Term Calendar with a view to encouraging local authorities towards a degree of standardisation of dates. This is based on the following principles:
 - Start the school year on a September date as near as possible to 1 September.
 - Equalise teaching and learning blocks (roughly 2x7 and 4x6 weeks).
 - Establish a two-week spring break in early April irrespective of the incidence of the Easter Bank Holiday. (Where the break does not coincide with the Bank Holiday the date should be, as far as practicable, nationally agreed and as consistent as possible across all local authorities.)
 - Allow for the possibility of a summer holiday of at least six weeks for those schools which want this length of break.
 - Identify and agree annually designated periods of holiday, including the summer holiday, where Head Teachers are recommended not to arrange teaching days.
7. The proposed term dates in appendix 2 currently only match with Newcastle City Council who are consulting on this option. The other neighbouring local authorities

have yet to consult on their term dates; however, initial indications are that they are likely to be the similar.

8. The proposal fixes the spring bank holiday in line with the Local Government Association strategy establishing a two-week spring break in early April which also covers two bank holidays. It allows 2 CPD days in term time requiring the 3 remaining training days to be completed as twilight sessions

Consultation

9. Proposed term dates were shared with Gateshead head teachers, however, the Teacher's JCC meeting held on the 1 March 2017, felt that the Spring break should be for two weeks from the 8 April 2019 to better balance out the number of weeks in each half term. The revised proposed term dates have been shared with other local authorities in the region, Gateshead Head Teachers, Teachers' JCC membership, Unison, GMB and other representatives and the Diocesan Bodies
10. The Cabinet Members for Children and Young People have been consulted.

Alternative Options

11. In theory there are many options that can facilitate arriving at a school term calendar which allocates 190 teaching (contact with pupil) days and 5 continued professional development days. Normally it is not viewed helpful to develop what could result in a broad range of choices, as it is contrary to the principle of trying to achieve a degree of regional and national alignment.

Implications of Recommended Option

12. Resources

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that there are no financial implications as a result of this report.
- b) **Human Resources Implications** – None
- c) **Property Implications** - None

13. **Risk Management Implication** - None.

14. **Equality and Diversity Implications** – Every effort is made in setting dates to take account of holiday requirements created and a result of faith.

15. **Crime and Disorder Implications** - Evidence does show the potential for an increase in youth crime and disorder and antisocial behaviour during periods when young people are not in school. The Council seeks to address this 'risk' by collaborating with partners to offer activity programmes during common holiday periods.

16. **Health Implications** - None

17. **Sustainability Implications** – None.

18. **Human Rights Implications** – None.

19. **Area and Ward Implications** - All.

20. **Background Information-**

The Education (School Day and School Year) (England) regulations 1999(SI 1999 No 3181)

Gateshead Draft B Term and Holiday Dates Academic Year 2018/19

 Bank Holiday

 Holiday

193 TERM DAY ENVELOPE

	AUGUST 2018	SEPTEMBER 2018	OCTOBER 2018	NOVEMBER 2018	DECEMBER 2018	JANUARY 2019
Monday	6 13 20 27	3 10 17 24	1 8 15 22 29	5 12 19 26	3 10 17 24 31	7 14 21 28
Tuesday	7 14 21 28	4 11 18 25	2 9 16 23 30	6 13 20 27	4 11 18 25	1 8 15 22 29
Wednesday	1 8 15 22 29	5 12 19 26	3 10 17 24 31	7 14 21 28	5 12 19 26	2 9 16 23 30
Thursday	2 9 16 23 30	6 13 20 27	4 11 18 25	1 8 15 22 29	6 13 20 27	3 10 17 24 31
Friday	3 10 17 24 31	7 14 21 28	5 12 19 26	2 9 16 23 30	7 14 21 28	4 11 18 25
Saturday	4 11 18 25	1 8 15 22 29	6 13 20 27	3 10 17 24	1 8 15 22 29	5 12 19 26
Sunday	5 12 19 26	2 9 16 23 30	7 14 21 28	4 11 18 25	2 9 16 23 30	6 13 20 27

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	FEBRUARY 2019	MARCH 2019	APRIL 2019	May 2019	JUNE 2019	JULY 2019
Monday	4 11 18 25	4 11 18 25	1 8 15 22 29	6 13 20 27	3 10 17 24	1 8 15 22 29
Tuesday	5 12 19 26	5 12 19 26	2 9 16 23 30	7 14 21 28	4 11 18 25	2 9 16 23 30
Wednesday	6 13 20 27	6 13 20 27	3 10 17 24	1 8 15 22 29	5 12 19 26	3 10 17 24 31
Thursday	7 14 21 28	7 14 21 28	4 11 18 25	2 9 16 23 30	6 13 20 27	4 11 18 25
Friday	1 8 15 22	1 8 15 22 29	5 12 19 26	3 10 17 24 31	7 14 21 28	5 12 19 26
Saturday	2 9 16 23	2 9 16 23 30	6 13 20 27	4 11 18 25	1 8 15 22 29	6 13 20 27
Sunday	3 10 17 24	3 10 17 24 31	7 14 21 28	5 12 19 26	2 9 16 23 30	7 14 21 28

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	AUGUST 2019	SEPTEMBER 2019
Monday	5 12 19 26	2 9 16 23 30
Tuesday	6 13 20 27	3 10 17 24
Wednesday	7 14 21 28	4 11 18 25
Thursday	1 8 15 22 29	5 12 19 26
Friday	2 9 16 23 30	6 13 20 27
Saturday	3 10 17 24 31	7 14 21 28
Sunday	4 11 18 25	1 8 15 22 29

Proposed return on Monday 2 Sept 2019

The number of term days shown is 193. Schools need to keep 1 day back from the 193 above until late in the summer term for possible election purposes leaving 192 days in term. Schools will therefore need to identify 2 PD day from the term dates above and need to determine a further 3 PD days from twilight sessions or designated holidays.
(Pupils must be taught for 190 days (380 sessions))

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TITLE OF REPORT: Overview of the Regional Adoption Agency development

REPORT OF: Sheena Ramsey, Chief Executive

Purpose of the Report

1. To request endorsement of the outline proposals for the continued development of the Adopt NE Regional Adoption Agency (RAA). To endorse the preferred business model option for Adopt NE in the form of a Local Authority owned Joint Venture. To note a full business case will be presented for consideration to Cabinet by the end of 2017.

Background

2. The development of Regional Adoption Agency proposals is part of the national adoption agenda set out in the DfE paper 'Regionalising Adoption' in June 2015. This was further developed in 'Adoption; A Vision for Change' in March 2016.

Proposal

3. The Adopt NE Project Board, supported by DfE appointed project mentors, has agreed the following vision and high level objectives:

Our vision:

- Excellent adoption services that transform children's and families' lives for the better.

Our objectives:

- We place all children in a timely way in high quality, successful, life-long adoptive placements which meet all of their needs.
 - Families and prospective adopters receive a high quality experience no matter where they live.
 - Adoptive children and families receive the support they need for as long as they need it.
 - Our skilled and dedicated staff are proud to work for the service.
 - We achieve our objectives by working together in a spirit of collaboration, openness and co-production.
4. A Project Board has been established to carry out an options appraisal on a number of potential delivery models for regionalised adoption services. The board includes representation from all 5 local authorities and the 4 Voluntary Adoption Agencies (VAAs). There are 5 potential delivery models, which the DfE asked the Board to consider.

5. All Local Authority and VAA members of the Project Board met in October 2016 to consider all five RAA joint venture model options and recommended Option 2 due to the strengths of and balance of local authority ownership.
6. The main strength of this option is the necessary degree of control and management of risk for participating LAs whilst maintaining the flexibility to innovate and commission activity from VAAs. The procurement position is more favourable as certain exemptions are afforded if the RAA is Local Authority controlled and the essential part of the RAA activity is with the controlling Local Authorities.
7. **Option 2: Joint Venture between LAs**
 - RAA jointly owned by each LA partner
 - LA staff TUPE transfer or seconded
 - Using Teckal exemption LAs could contract with the new LA trading company (LATC) to provide specified adoption services without procurement exercise
 - Governance arrangements must be constructed so that the LAs can each 'control' the RAA in order to pass Teckal exemption test
 - VAA cannot be an owner –procurement and tax rules mean it must be owned by one or more Local authorities
 - VAAs could be involved in governance in a 'non-executive' capacity
 - Model could sub contract services from VAA/providers.
8. On 15 November 2016, a meeting of the project team, including some Lead Members from the LAs and DCSs from our five local authority stakeholders met and agreed to pursue, subject to formal partner agreement, a business solution involving the formation of a local authority owned joint venture recommending (option 2).

Recommendations

9. Cabinet is recommended to:
 - (i) Endorse the outline proposals for the continued development of the Adopt NE Regional Adoption Agency (RAA).
 - (ii) Endorse the preferred business model option for Adopt NE in the form of a Local Authority owned Joint Venture.
 - (iii) Note a full business case will be the subject of a further report to Cabinet before the end of 2017.

For the following reason:

In order to agree the direction of travel for the adoption service and to progress the proposal of the joint venture RAA into a full business case.

Policy Context

1. The Adopt NE proposal meets the requirements placed upon the Council to develop a new form of service to deliver statutory adoption functions. The preferred model secures best outcomes for children, prospective adoptive families and enables the Council to ensure that its excellent record and reputation in relation to adoption is secured into the future.

Background

2. The development of Regional Adoption Agency proposals is part of the national adoption agenda set out in the DfE paper 'Regionalising Adoption' in June 2015. This was further developed in 'Adoption; A Vision for Change' in March 2016. The Government sought to address a number of challenges in adoption which they described as follows:
 - **Inefficiencies in the delivery of adoption services in England:** there are many adoption agencies (LAs and VAAs) chasing a limited market and not utilising economies of scale. In 2015 there were over 180 different adoption agencies, which dealt with around 5000 adopted children.
 - **Matching of children:** To reduce further the waiting time of hard to place children. In 2015 around 3000 children nationally with adoption placement orders were still waiting for 'forever families', despite there being enough approved adopters across the country.
 - **Recruitment concerns:** increase the capacity of the number of adopters who could take children with complex needs.
 - **Adoption Support challenges:** To strengthen further adoption support purchasing regional provision of high enough quality to support the long term needs of adoptive families.
3. In order to address these challenges, the government suggested a coming together of networks (mainly geographical) of local authorities (LAs) and Voluntary Adoption Agencies (VAAs) to form regionalised adoption services, utilising economies of scale, mutual learning and expertise from the VAA sector.
4. The government has signalled a clear intention that by the end of this parliament all local authorities will be part of regional agencies. The Education and Adoption Act 2016 makes provision for the government to direct a local authority to have its adoption functions carried out on its behalf by another authority or adoption agency where such provision has not been made.
5. At this stage the DfE is not prescriptive about what these adoption agencies should look like, other than that they must involve the voluntary sector in all aspects of the planning stage and the final delivery model, and should be more than simple consortium arrangements. Radical design solutions are being actively encouraged. To date, DfE has accepted expressions of interest over 80% of England's local authorities and over 95% of England's VAAs.
6. In November 2015, an expression of interest was submitted on behalf of Gateshead, Newcastle, Northumberland, North Tyneside and 4 voluntary adoption

agencies - After Adoption, Barnardo's, ARC NE and Durham Family Welfare (DFW). The proposal was approved by DfE as a "scope and define" project. South Tyneside Council has subsequently joined the project.

Consultation

7. The Cabinet Members for Children and Young People have been consulted.

Alternative Options

8. A Project Board has been established to carry out an options appraisal on a number of potential delivery models for regionalised adoption services. The board includes representation from all 5 local authorities and the 4 VAAs.
9. The potential delivery models, which the DfE asked the Board to consider, are summarised below.

Option 1: a single LA hosting on behalf of a number of LA's

- One LA hosts the RAA on behalf of the other partners
- LA staff TUPE transferred or seconded
- Would be run like a shared service by the host
- The LA's could commission the RAA directly without the need to tender, but only if the governance and control was shared between all LA's – Teckal exemption, legal advice required on governance
- A joint commissioning board could be established or the LA's could commission separately
- Model could sub-contract services from VAA/providers.

Option 2: Joint Venture between LA's

- RAA jointly owned by each LA partner
- LA staff TUPE transfer or seconded
- Using Teckal exemption LA's could contract with the new LA trading company (LATC) to provide specified adoption services without procurement exercise
- Governance arrangements must be constructed so that the LA's can each 'control' the RAA in order to pass Teckal exemption test
- VAA cannot be an owner – procurement and tax rules mean it must be fully owned by one or more LA's
- VAA's could be involved in governance in a 'non-executive' capacity
- Model could sub contract services from VAA/providers.

Option 3: Joint Venture between VAA's and LA's

- New organization cannot make a profit, therefore must be either a charity or have very clear provisions regarding profit in its constitutional documents.
- If it is jointly owned, ideally LA and VAA staff TUPE transferred or seconded
- Degree of LA control is variable depending on ownership shares
- If there is external ownership, procurement rules may have an impact e.g. LA's may have to openly tender for external partners
- Great potential for innovation in services, flexibilities that come from being an independent organization
- Model could sub-contract services from other VAA's/providers.

Option 4: Commissioning RAA (CVVA proposed model also considered in addition to DfE options)

- This model is based around the principle of commissioner/provider split where a group of LA's commission an RAA entity which handles family finding, matching and adopter support but does not recruit adopters
- Adopters are recruited into an adopter pool by the LA's and VAA's
- A key feature is that the family finding and matching process carried out by the RAA is 'blind' so decisions are not influenced by which LA or VAA recruits an adopter
- The RAA can be a Joint Venture (JV) between the LA's or a JV which also has VAA ownership – this would probably mean a procurement exercise would be necessary
- Regardless of ownership the VAA's would be involved in governance and decision making, possibly in a 'non-exec role)
- LA staff may transfer to the RAA to deliver family finding, matching and support services – but the RAA could also commission most services back from the LA's and the VAA's (and therefore be very thin)
- No VAA staff would TUPE transfer.

Option 5: Outsourcing to existing VAA

- The VAA would own the new RAA
- Staff (LA and VAA) possibly TUPE transferred or seconded
- A Board of Directors or Board of Trustees (for a charity) would be established – could take LA representatives
- LA's would commission the VAA to deliver the RAA – procurement rules will have an impact
- Risks/challenges around potential required working capital/upfront investment
- Model could sub-contract services from other VAA's/providers.

Other key issues underpinning this recommendation were:

- Option 1 may not offer the potential for innovation that other models can deliver and none of the partner LA's were willing to host the RAA
- Option 3 cost implications involved in shared ownership were not considered advantageous
- Option 4. This model was not considered to have potential efficiencies, however, the principle of 'blind matching' could be considered as part of other models
- Option 5. This delivery model had a number of potential risks including in relation to affordability and accountability, as staff would be required to transfer out of the Local Authority. None of Adopt NE partner VAA's were advocating this model.

Implications of Recommended Option

10. Resources:

- a) Financial Implications** - The Strategic Director, Corporate Resources confirms that there are no financial implications as a result of this report. At this stage work on the project is being funded by a grant from the DfE, with a small amount of work provided in kind by each Local Authority. Funding has been agreed from the DfE until end of March 2018.

b) Legal Implications - The provision of an adoption service is a statutory requirement and the Council is required to monitor the provision of adoption services. Pursuant to s.3 Adoption and Children Act 2002, each council must continue to maintain within its area an adoption service designed to meet the needs of children who may be adopted, their parents, natural parents and former guardians.

Under the Education and Adoption Act 2016 councils' adoption services can be compelled by the Secretary of State to be part of a RAA. Although the setting up of a RAA is not mandatory at this point, the Secretary of State has indicated an intention to do this for all councils by 2020. The development of a RAA will not absolve the Council of its statutory responsibilities, but will allow for certain functions to be delegated to facilitate the operation of a regional adoption agency model.

The power to undertake the regionalisation of adoption services is contained in s.15 Education and Adoption Act 2016.

As referred to in option 2, the preferred business model option for Adopt NE in the form of a Local Authority owned Joint Venture. Legal advice was commissioned from external solicitors to provide a number of potential options for the legal structure of the JV. A paper was produced setting out the following options:

- Company limited by Shares (CLS)
- Company limited by Guarantee (CLG)
- Community Interest Company (Limited by Shares)
- Community Interest Company (Limited by Guarantee)
- Community Benefit Society (CBS)
- Charity (Company Limited by Guarantee)
- Charity (Charitable Incorporated Organisation)

When considering the most appropriate vehicle governance, funding, staffing, asset transfer/ownership and procurement were all addressed and consideration was given to the role of the VAA, tax implications and exit capability.

The outcome of the exercise was a clear recommendation for a Company Limited by Guarantee (CLG). This is a flexible structure, although there are funding restrictions. All the other options were dismissed apart from the Community Benefit Society, however the CLG was favoured on the basis the process for creating the legal entity is less onerous and time consuming. The recommendation will be considered by the Project Board of the RAA on 27 April 2017 and a final decision will be taken at that board meeting.

The formulation of this legal entity will be developed over the coming months with the assistance of external legal advice. The important factors to consider on behalf of Gateshead Council are to ensure the governance of the CLG allows for equal decision-making and control by each of the five participating LA and limiting the decision-making powers of the four participating VAA to ensure the Teckal exemptions are preserved. This will preserve the ability to directly award contracts to the RAA and for the RAA to directly award contracts to the participating authorities.

The JV will be constituted as an adoption agency bringing it within the terms of s.3(1) Adoption & Children Act 2002, thus allowing Adopt NE to legally place children for adoption pursuant to s.92 Adoption & Children Act 2002; although there remains unresolved issues surrounding Ofsted approval and continuing statutory obligations.

Due consideration has been given to the legal implications through the Legal Work Stream Group, made up of legal representatives from each of the five LA, both in terms of the legal structure of the JV as well the legal implications of the RAA placing the children for adoption.

c) Human Resources Implications – Initial work has been carried out to identify staff who are in scope and informal consultation has commenced with both employees and the relevant Trade Unions. If Cabinet is to approve the transfer of staff, formal consultation will commence under TUPE regulations to ensure the preservation of staffs current terms and conditions.

d) Property Implications - The geographical location will be considered as part of the business plan development.

11. **Risk Management Implication** - A full Risk Assessment of all financial, legal, human resource and operational delivery issues will be undertaken as part of the next stage of the project and reported back to Cabinet in Autumn 2016. This Risk Assessment will be fully compliant with the Council's decision making risk management guidance.

A risk register will be maintained as part of regular project management practice with mitigating actions identified to ensure the likelihood and impact of risks is managed proactively. An interim assessment of key risks is set out below.

Risk 1: Disruption during the period of transition and managers/staff becoming focussed on the change process rather than service delivery may lead to delays in plans for children.

Mitigation: Thorough and effective transition planning agreed with service managers and flexibility to enable service delivery priorities to be managed. Plans in place to reduce the workload on adoption managers and staff, thereby enabling them to maintain direct service provision. Early appointment of a Chief Officer to the RAA will support transition planning.

Risk 2: Adopters and adoptive children may lose confidence during the change process resulting in the potential for fractured relationships and breakdown in service delivery

Mitigation: Communications planning and involvement of adopters and adoptive children and young people throughout the process. Service monitoring during transition to ensure no impact on service delivery.

Risk 3: ICT system change may impact on service information, governance and records. Potential impacts include loss of personal information, delays in processes, safeguarding risk and cost of information security failures, undermining confidence in the new service and reputational damage.

Mitigation: ICT lead officers involvement and collaboration in planning and developing appropriate solutions. Detailed information gathering and analysis prior to service implementation will reduce potential confusion and error.

Risk 4: Potential for fragmentation and loss of good working relationships with child care teams in authorities, and disrupted links with health, education and other services.

Mitigation: Engagement of child care teams in the project and specific input into service specification and process changes to ensure links are maintained. Engagement with all partner agencies, service providers and ensuring robust systems are in place to maintain ongoing relationships into the future.

Risk 5: Set up and running costs may be underestimated leading to unforeseen liabilities for partners and/or the new RAA.

Mitigation: Financial analysis and modeling involving expert advice is included in the financial and transition plans. Sufficient time will be allocated to these activities and engagement of all partners in agreeing proposals to ensure estimates are understood by all and are as accurate as possible.

12. **Equality and Diversity Implications** - It is anticipated that Cabinet will consider the full business case before the end of 2017. Until Cabinet approves this, from the perspective of the Regional Adoption Agency (Adopt NE), there will be no changes in the current day to day delivery of Gateshead adoption services. We anticipate that the business case will have an overall positive impact upon children and young people, prospective adopters, adopters, staff, the council and stakeholders whom we work with and support.

A full and detailed impact assessment will be undertaken as part of the submission of the full business case to Cabinet.

14. **Crime and Disorder Implications** –There are no implications
15. **Health Implications** – The development work has consulted with Health services and will continue to work in partnership in shaping the service offer.
16. **Sustainability Implications** - The development of a full business case will focus on all sustainability issues.
17. **Human Rights Implications** - No issues
18. **Area and Ward Implications** - No issues

TITLE OF REPORT: Team Valley Flood Alleviation and Water Meadows (TVFA)
– Outline ERDF Application

REPORT OF: Paul Dowling, Strategic Director, Communities and
Environment

Purpose of the Report

1. To approve the submission of an outline application to the ERDF Axis 5 Climate Change to support the delivery of phase 2 of the proposed Team Valley Flood Alleviation and Water Meadows (TVFA) project. The proposal is for the Council to act as the accountable body for the ERDF funding with the Environment Agency the lead delivery partner.
2. In making this decision the Council will be committing resources to support the development of the Full ERDF application by the 1 September 2017.

Background

3. Following significant flooding on the Team Valley Trading Estate (TVTE) in June and September 2012, the Council and the Environment Agency (EA) have been working in partnership to consider catchment-wide options for flood risk management. This project also combines flood alleviation benefits with habitat creation and water meadows expansion.
4. Team Valley is of significant importance as a trading estate to the local, regional and national economy, supporting over 700 businesses and employing over 24,000 people. Modelling exercises for the 'do nothing approach' show that 464 non-residential properties and 14 residential properties are at risk from a 1 in a 100 year flood event. There are currently no formal flood defences in the Team Valley Trading Estate. Many businesses have stated that they are at serious risk of closure or relocation if further flood events occur.
5. In terms of qualifying the scope of flood intervention measures required to reduce the flood risk on the Team Valley Trading estate, Capita was commissioned in 2015 by the Environment Agency, to undertake an options appraisal. This work revealed that a package of catchment wide approaches is required to ensure that flooding from all sources in the Team Valley are better managed.
6. An opportunity has been identified to seek ERDF funding to help facilitate the delivery of the proposed work given the strategic fit of the proposed works with the priorities outlined within the funding call, particularly given the investment will benefit sustainable economic growth and business. However, whilst the EA are considered a key partner and the information within the funding call is targeted towards areas highlighted as a risk by the EA, they are not eligible to apply for this funding stream directly.

7. The ERDF component of the project, the Water Meadows Project at Lamesley will provide increased protection to 343 businesses by storing water upstream and acting as a key catalyst for further phases of work. It is important to stress that the delivery of all interventions is required and that each phase of project delivery will reduce risk both in terms of removing the risk for some properties and reducing the level of flood water in extreme events.

Proposal

6. The scope of work currently proposed is divided into three phases of development and it is proposed that the Core Scheme and Phase 2 described in the table below are delivered in the period up to September 2019.
7. The ERDF Outline Application deadline is 28 April 2017. The ERDF Full Application deadline is 1 September 2017. A total of £2,713,000 of ERDF funding is being requested for the Water Meadows at Lamesley (Phase 2) and it is proposed that the Council act as the accountable body for the project.
8. In undertaking an accountable body role there are a number of risks that would pass to the Council during the delivery stage and beyond its completion. These risks will be clarified during the application process and will reflect the funding conditions outlined within an offer letter and will extend to the potential clawback of funding arising from any deemed non-compliance during the delivery stage. To manage these risks the Council is proposing to develop legal agreements with our delivery Partners which will clarify how the risks will be shared.
9. It is understood that the Core Scheme will be delivered by the EA, subject to the successful outcome of an EA 'Grant in Aid' funding application, regardless of the outcome of the ERDF application and the Council has already approved a contribution of £100,000 towards the Core Scheme as part of the capital programme. As stressed above, whilst the Core Scheme still has considerable benefits it is not adequate on its own to reduce the flood risk to an acceptable level. A detailed report on all flood measures in this project will be presented at the point of seeking approval for the ERDF Full Application.

Phase	Interventions	Start on Site – Anticipated completion	Budget required	Funding sources
Core Scheme	Consisting of a package of measures such as 'daylighting' (opening up) of culverts and removal of the upstream weirs, water attenuation and natural flood management	April 2018 – Sept 2019	£1.7m	EA, GMBC £100k, UK Land Estates £500k, Local Levy £249,000
Phase 2	Upstream storage on the River Team and its tributaries, expanding upon and enhancing the existing Lamesley Pastures project	April 2018 – Sept 2019	£5.4m (including a 60% optimum bias)	EA 50%, ERDF 50% (GC accountable body)
Phase 3	Improved surface water management on TVTE	tbc	tbc	tbc

Recommendations

10. It is recommended that Cabinet

- (i) Approves the submission of an outline application to the ERDF Climate Change fund as the accountable body.
- (ii) Notes that the outline application does not commit the Council to a contractual undertaking prior to the development of the full ERDF application.
- (iii) Agrees that a further report is presented outlining the detail of the proposed interventions, alongside identification of the project impact and implications during construction and post completion and that this report be submitted in advance of seeking approval for the Full ERDF application (due on 30 September 2017).

For the following reasons:

- Significant flood risk will be reduced to 343 properties;
- To prevent reputational damage to TVTE, resulting in businesses relocating and/or closing;
- Enabling new industrial development on the TVTE;
- Protect and enhance business rate income;
- Expansion of the existing nature reserve at Lamesley Pastures, including 30 hectares of wetland and new public access, which could become a visitor attraction;
- Improvements to the water quality status of the River Team which is a failing water body under the European Water Framework Directive; Reducing the risk of future, costly Council clean-ups resulting from flooding.

CONTACT: Jo Gooding ext 2695.

APPENDIX 1

Policy Context

1. The project directly supports the delivery of Vision 2030, contributing to all of the 6 big ideas and specifically the development of a robust economic base for the City of Gateshead, promoting strong economic performance Sustainable Gateshead and Gateshead Goes Global.
2. The proposal is consistent with the three shared objectives of the 2015-2020 Council Plan particularly Live Well Gateshead and Prosperous Gateshead.
3. In the Gateshead and Newcastle Core Strategy and Urban Core Plan, policy CS5 'Employment and Economic Growth Priorities' identifies the growth potential of advanced manufacturing and engineering at Team Valley
4. The project is aligned with the Rural Economic Strategy objectives to increase economic growth in rural Gateshead through tourism and improved land use.
5. Gateshead Economic Growth Acceleration Plan identifies the need to bring forward premises to meet the needs of locally expanding companies and inward investment.

Consultation

6. In preparing this report, consultations have taken place with the Cabinet Members for Environment and Transport Portfolio and Ward Councillors.

Alternative Options

7. The Council is not positioned strategically or financially to undertake the complexities of this project independently of utilising the EA's statutory powers and financial support. The EA is not known to be exploring other studies or approaches to flood risk management in the Team Valley area.

Implications of Recommended Option

8. Resources:

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that the ERDF scheme is anticipated to cost £5.4m in total, with £2,713,000 of ERDF funding being requested to complement Environment Agency resources. As part of the application process the Council is agreeing to act as the accountable body in the event that the scheme is approved. The risks associated with this process will be considered as part of developing the project.
- b) **Human Resources Implications** – Following the submission of the Outline ERDF Application there is a period between May and September where specialist teams within services will be supporting the development of the full application at risk.
- c) **Property Implications** – The Council has land ownership at Lamesley Pastures which is leased to Durham Wildlife Trust for 35 years. There are discussions underway between partners to evaluate maintenance implications.

9. **Risk Management Implication** – A risk register has been prepared for the project and is being managed by the Project Team. A key requirement is to develop a legal partnership agreement between the Council and the EA to stipulate the terms of the financial arrangement and to define the extent of shared risk between partners. This will be developed at full application stage and will be reported to Cabinet for approval.
10. **Equality and Diversity Implications** – There are no implications arising from this report. A full equality statement will be developed to support the full ERDF Application.
11. **Crime and Disorder Implications** – There are no implications arising from this report.
12. **Health Implications** - There are no direct health implications arising from this report. Indirectly health linkages will be explored through connections with other leisure access projects such as the Bowes Railway Path.
13. **Sustainability Implications** –Environmental, economic and social sustainability are key considerations in the design of this multi-faceted project and a full impact statement will be prepared to support the Full ERDF Application.
14. **Human Rights Implications** – There are no implications arising from this report.
15. **Area and Ward Implications** – Lamesley

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REPORT TO CABINET
25 April 2017

TITLE OF REPORT: Tyne and Wear Archives and Museums – Joint Agreement and New Governance Arrangements

REPORT OF: Paul Dowling, Strategic Director, Communities and Environment
Mike Barker, Strategic Director, Corporate Services and Governance

Purpose of the Report

1. To inform Cabinet of developments since November 2016 with regard to governance arrangements for Tyne and Wear Archives and Museums (TWAM) and to seek Cabinet approval in relation to the formation of a TWAM Strategic Board and Trading Company. In particular, to seek Cabinet approval of the Terms of Reference for the TWAM Strategic Board and the Shareholders' Agreement in relation to the TWAM Trading Company.

Background

2. On 29 November 2016, Cabinet approved in principle the adoption of new governance arrangements for TWAM including the dissolution of the existing Joint Committee to be replaced from 1 June 2017 by a Strategic Board and the establishment of a wholly-owned Trading Company. Authority was delegated to the Service Director, Legal, Democratic and Property Services to negotiate and prepare the necessary legal agreements, subject to a report back to Cabinet before the Council entered into any legally binding agreements.
3. The process of negotiating the necessary agreements has been completed with external legal support to TWAM from Bond Dickinson solicitors. Legal advisers from each of the four participating authorities have scrutinised the documentation and caused appropriate amendments to be made. The documents in question are:
 - Terms of Reference for the Strategic Board
 - Heads of Terms in relation to the Trading Company
 - Draft Articles of Association in relation to the Trading Company
 - Shareholders' Agreement in relation to the Trading Company
4. During the course of discussions between the legal advisers for the participating authorities, it became clear that the Strategic Board could not practically be constituted as anything other than a Joint Committee of the local authorities for the purposes of the Local Government Act 1972. The result is that there is a departure from the original proposal to dissolve the existing Joint Committee

and replace it with the Strategic Board. It is now proposed that there continue to be a Joint Committee, but that a sub-committee will be created to act as the Strategic Board. That will enable co-opted independent members to provide outside influence, albeit in a non-voting capacity. It is proposed that business of the sub-committee will precede business of the Joint Committee so that the Joint Committee may take into account the views of the independent members when arriving at its decisions.

Proposal

5. The Terms of Reference of the Strategic Board take account of the need for the continued existence of a Joint Committee and set out governance arrangements for the Strategic Board as follows:
 - The Strategic Board will be a sub-committee of a Joint Committee of the participating local authorities with independent members whose function shall be to advise the Joint Committee.
 - The Strategic Board shall be between 6 and 11 in number with six members to be elected members from the local authorities. Each local authority will appoint one member and there shall be two additional local authority members appointed on a rotating basis. The number of elected members is therefore guaranteed to be a majority of the Strategic Board, reinforced by a requirement that steps shall be taken to maintain that majority in the event of resignations or vacancies.
 - The Chair of the Strategic Board to be an independent member, but the vice chair to be an elected member, each to be appointed by the local authorities by consensus.
 - Independent members to be recruited by advertisement with the constituent councils deciding whom to interview and being represented on the interview panel.
 - Quorum for meetings to be five (5) with a requirement that a majority be elected (local authority members).
 - Certain decisions to be reserved matters to give clarity to the items of business which should be dealt with only by the TWAM Joint committee.

6. The Heads of Terms in relation to the Trading Company have been agreed subject to Cabinet approval. The proposed Articles of Association and Shareholders' Agreement in relation to the Trading Company accord with the agreed Heads of Terms. Key governance features of the Trading Company are as follows:
 - Company limited by shares with the four local authorities and the University (the JV Partners) each holding 20% of the share capital. The objects of the company will be to operate as a general commercial company for the purposes of making profits for distribution for the benefit of museums and archive services across the TWAM operation.
 - Guaranteed involvement of an elected member from at least one of the authorities on the trading company board.
 - Board to be between 3 and 7 in number with up to four independent directors and chair to be appointed by the JV Partners.

- Funding of the creation of the company is to be achieved from existing budget.
- Major decisions to require unanimity of the JV partners (the authorities and Newcastle University) and to require all JV partners to be present for a Quorum.
- Other substantial decisions to be made by simple majority of JV Partners.
- Minor decisions to be made by simple majority of board members.
- Deadlocked decisions to be resolved by a dispute resolution procedure leading ultimately to binding arbitration.

Recommendations

7. It is recommended that Cabinet:
- (i) Approves the modified approach with regard to the Strategic Board, namely that the Strategic Board will be a sub-committee of a continuing Joint Committee of the four participating local authorities.
 - (ii) Approves the signing of the Terms of Reference of the Strategic Board and delegates the signature of the same to the Service Director, Legal, Democratic and Property Services.
 - (iii) Approves the signing of the Heads of Terms in relation to the Trading Company and delegates the signing of the same to the Service Director, Legal, Democratic and Property Services.
 - (iv) Approves in principle the draft Shareholders' Agreement in relation to the Trading Company and delegates to the Service Director, Legal, Democratic and Property Services authority to negotiate and agree any necessary further amendments to the same and to sign the same once agreed.
 - (v) Approves in principle the incorporation of the Trading Company with the Articles of Association set out at appendix 3 and delegates to the Service Director, Legal, Democratic and Property Services authority to negotiate and agree any necessary further amendments to the same before incorporation of the Trading Company.

CONTACT: Lindsay Murray extension: 2794 Brendan McNeany extension: 2610

APPENDIX 1

Policy Context

1. The proposal will help deliver Vision 2030's ambitions for a Creative Gateshead as well as the Council Plan priorities of Live Love Gateshead and Live Well Gateshead. It addresses the five big ambitions of the Creative Gateshead Culture Strategy.

Consultation

2. All Cabinet Members have been consulted on this report.

Alternative Options

3. Cabinet could elect not to proceed with the revised governance arrangements, however, this would present significant risk to the continuation of TWAM and potentially compromise £16m of Arts Council England funding.

Impact of Recommended Option

4. Resources

a) Financial Implications – The Strategic Director, Corporate Resources confirms that there is no direct financial implication from the content of this report. Future contributions to TWAM will be determined as part of the Council's normal budget setting process.

b) Human Resources Implications – There are no direct HR implications associated with Gateshead Council.

c) Property Implications – There are no direct property implications arising from this recommendation,

5. **Risk Management Implications** - There are two principal risks to TWAM associated with the proposals in this report. These will come in 2017/18 and the years that follow:

a) If any of the four participating authorities is unable to maintain its financial commitment. This would jeopardise the Arts Council England funding which supports the services. Mitigation is provided by the strong engagement of all partners.

b) If TWAM does not achieve National Portfolio Organisation funding for the period 2018-22. The measures included in this report provide significant mitigation against this risk.

6. **Equality and Diversity Implications** – There are no equality and diversity implications from this recommendation.

7. **Crime and Disorder Implications** – There are no crime and disorder implications from this recommendation.
8. **Health Implications** - There are no health implications from this recommendation.
9. **Sustainability Implications** – There are risks to the future sustainability of TWAM if these recommendations are not supported.
10. **Human Rights Implications** – There are no human rights implications arising from this report.
11. **Area and Ward Implications** – All.

Strategic Board

Terms of Reference

Introduction

1. These Terms of Reference were adopted by the Constituent Councils on [date] pursuant to the joint agreement between them dated [date] (“the Joint Agreement”).
2. The purpose of these Terms of Reference is to set out the purpose and objectives of the Strategic Board, the composition of its membership and how it shall conduct its business.
3. The Strategic Board is created to enable Tyne and Wear Archives and Museums (“TWAM”) to explore new ways of working and engage with a wider sector; and to ensure a sustainable, resilient and positive future for TWAM, particularly in light of significant reduction in public sector funding.
4. The Strategic Board substitutes and carries out the functions of the Joint Committee established under ss101 and 102 Local Government Act 1972 acting with responsibility for the provision and maintenance of the TWAM service. Members of the Strategic Board acknowledge and agree that, where the Strategic Board is discharging the statutory functions of the Constituent Councils and acting in its capacity as a Joint Committee, at law and pursuant to section 13 of Local Government and Housing Act 1989, only elected councillor members of the Strategic Board may vote in relation to such matters and be regarded as "voting members" of the Strategic Board for such decisions.
5. Notwithstanding this, the Strategic Board also recognises the benefit to TWAM of fully engaging with its non elected Board members and the advantages of having such members take an active part in Board meetings, contributing to the richness of debate and having their views taken into account in relation to all decisions made.

Objectives and purpose

6. The Strategic Board's key objective is to administer, maintain and develop TWAM ("the Objective"). More specifically, the Strategic Board is responsible for:
 - a. developing a strategic focus to drive growth;
 - b. providing scrutiny and leadership, democratic accountability, and enterprise support and challenge to TWAM and its executive team;
 - c. overseeing the overall governance and strategic leadership of TWAM in accordance with TWAM's mission and objectives;
 - d. ensuring TWAM's continuing financial viability and long term sustainability including by supporting TWAM to take advantage of new opportunities (notably in relation to generating income from commercial and philanthropic sources);
 - e. ensuring TWAM is making effective use of its assets, services and resources to support its museum and archive activities;
 - f. ensuring TWAM is delivering against Constituent Council and University priorities; and
 - g. ensuring TWAM is meeting the needs of its users and communities.

Functions

7. In order to achieve the Objective, the Strategic Board shall carry out the following functions ("the Functions"):
 - a. approve the Strategic / Corporate Plan for TWAM;
 - b. prepare a policy statement for TWAM and revise it from time to time as may be required;
 - c. monitor and review the work of TWAM;

- d. determine the budget and staffing of TWAM;
- e. comment on matters affecting museums, archives and records regionally, nationally and internationally insofar as they affect TWAM;
- f. provide practical support and challenge to TWAM's senior management team;
- g. ensure effective working relationships with TWAM's key stakeholders / partners including TWAM Enterprises Limited and TWAM Development Trust and with its funders, including Arts Council England;

and in carrying out those Functions, each member of the Strategic Board must observe and comply with the UK Corporate Governance Code and with the Code of Conduct at Appendix 3.

Powers

- 8. Subject to the provisions of the Joint Agreement, the Strategic Board shall have the powers delegated to it by the Constituent Councils to take such actions as are required to meet the Objectives and fulfil the Functions.
- 9. In making decisions pursuant to the exercise of its powers, the Strategic Board will have due regard to the capacity in which it makes such decisions and, when acting as a Joint Committee and discharging the statutory functions of the Constituent Councils, shall ensure that only elected councillor members of the Strategic Board vote on such matter. For the purposes of these Terms of Reference, decisions which amount to the discharge of a statutory function are known as "Reserved Matters" and those elected councillor members entitled to vote on such matters are known as "Reserved Matter Members".
- 10. The Strategic Board shall not incur expenses on behalf of TWAM without the prior approval of the Elected Members and the Rotating Members.

Number of members

11. The Strategic Board shall be between six and eleven in number. Members of the Strategic Board shall take steps to procure that the Strategic Board is at its full complement in order for it to effectively discharge its Objectives.
12. If the number falls below the minimum the Strategic Board shall take prompt steps to fill the relevant vacancy in accordance with these Terms of Reference.
13. Each of the Constituent Councils shall annually appoint one member (each member being an elected member of their Constituent Council) as member of the Strategic Board (each called an "Elected Member").
14. The University of Newcastle ("the University") shall annually appoint one member as a member of the Strategic Board (the "University Member").
15. Every year two different Constituent Councils may appoint one member each (each member being an elected member of their Constituent Council) as members of the Strategic Board (each called a "Rotating Member"). In any given year, the two Constituent Councils making the appointments must be different to the two Constituent Councils who made the appointments in the previous year.
16. There shall be up to four members appointed to the Strategic Board who are not members, employees or officers of the Constituent Councils or the University (the "Independent Members") and such Independent Members shall be appointed in accordance with the nominations protocol appended to these Terms of Reference ("Nominations Protocol").
17. The Elected Members and Rotating Members shall always be in the majority. If the removal or resignation of a member results in the Independent Members and University Member forming the majority of members of the Strategic Board, the Constituent Councils shall take steps to elect a member or members to ensure that the Elected Members and Rotating Members then form the majority and until such time, the remaining members may not take any further action under these Terms of Reference.
18. In appointing individuals as members, regard must be had to the skills, knowledge, experience and diversity needed for the Strategic Board to

[] for a period of 4 years

The first Independent Members may be re-appointed at the end of their initial term for a further term of four years.

25. Notwithstanding paragraphs 23 and 24, in exceptional circumstances and where the best interests of TWAM require, the term of office of an Independent Member may be extended after s/he has served two consecutive terms in office but on a rolling one year basis and only with the agreement of all members (excluding the Independent Member concerned).
26. Any person who retires as a member by reason of them having served the maximum number of successive terms permitted under these Terms of Reference, or by giving notice pursuant to paragraph 30.a, is eligible for re-appointment after four years has lapsed from the date of their retirement, and may be so re-appointed in accordance with the relevant procedures set out in these Terms of Reference.

Appointment of Independent Members

27. The Constituent Councils shall together determine the appointment of the Independent Members. A Constituent Council (for the time being, the Council of the City of Newcastle upon Tyne) (hereinafter the “Lead Authority”) shall coordinate this process in accordance with the procedure set out in the Nominations Protocol at Appendix 1.

Appointment of the Chair and Vice Chair

28. The Constituent Councils shall together determine the appointment of the Chair of the Strategic Board, who shall be an Independent Member. A Constituent Council (for the time being, the Council of the City of Newcastle upon Tyne) (hereinafter the “Lead Authority”) shall coordinate this process in accordance with the procedure set out in the Nominations Protocol at Appendix 1.
29. The Elected Members and the Rotating Members shall, on an annual basis, appoint one of their number to be Vice Chair of the Strategic Board.

Retirement and removal of members

30. The appointment of any member of the Strategic Board shall terminate forthwith in any of the following circumstances:
- a. s/he resigns therefrom by notice in writing to the Chair of the Strategic Board;
 - b. s/he is disqualified by statute from acting as a trustee by virtue of sections 178-180 of the Charities Act 2011 (as amended from time to time), for example, by reason of the member's bankruptcy, fraudulent behaviour, or misconduct;
 - c. s/he is disqualified from acting as a director;
 - d. in the case of an Independent Member or the Chair, s/he is removed by the Lead Authority following consultation with and agreement of the Constituent Councils and after giving the Independent Member a reasonable opportunity to respond, on the basis that, in the Lead Authority's reasonable opinion, that Independent Member's conduct or behaviour is detrimental to the interests of the Strategic Board and / or to TWAM;
 - e. s/he dies;
 - f. s/he is absent from three consecutive meetings of the Strategic Board without good reason and the other members resolve to remove him/her. In the event that the member concerned is an Elected Member, a Rotating Member or the University Member, the person which appointed him/her shall be invited to appoint someone in his/her place;
 - g. in the case of an Elected Member, a Rotating Member, or the University Member, s/he is removed by the body who appointed him, in which case that body shall appoint someone in his/her place; and / or
 - h. s/he breaches the terms of these Terms of Reference or the Joint Agreement.

31. Each Elected Member shall cease to be a member of the Strategic Board if:
 - (a) s/he ceases to be a member of the Constituent Council appointing him/her; or
 - (b) the Constituent Council by which s/he was appointed terminates his/her appointment.
32. Subject to paragraph 17, should any vacancy arise amongst the Elected Members or the Rotating Members, the relevant Constituent Council shall appoint a member to fill the relevant vacancy and in the intervening period before such appointment is made the remaining members shall nonetheless constitute the Strategic Board and shall have full power to conduct the business of the Strategic Board.

Delegation by Strategic Board

33. The Strategic Board may delegate any of their powers or functions other than those relating to non-urgent Reserved Matters (defined below) to a sub-committee or sub-committees, and if they do, they shall determine the terms and conditions on which the delegation is made. The Strategic Board may at any time alter those terms and conditions, or revoke the delegation.
34. The Strategic Board's power of delegation is subject to the following requirements:
 - a. subject to paragraphs 34b and 34c, a sub-committee may consist of three or more persons (which may include non members);
 - b. where a sub-committee has delegated authority to make decisions on behalf of the Strategic Board, the majority of its members must be members of the Strategic Board;
 - c. where a sub-committee has delegated authority to make decisions on urgent Reserved Matters, only those members of the sub-committee who are Reserved Matter Members (defined below) may vote on the decisions;

- d. the acts and proceedings of any sub-committee must be brought to the attention of the Strategic Board as soon as is reasonably practicable;
- e. the Strategic Board shall from time to time review the arrangements which they have made for the delegation of their powers.

Reserved Matters

- 35. The Strategic Board recognises that certain decisions relating to the discharge of a statutory function are, at law, reserved to members who are Elected Members or Rotating Members of the Constituent Councils being elected councillors of a Constituent Council (together the “Reserved Matter Members”) being those decisions relating to TWAM of such significance to be considered by the Constituent Councils as being ones which are required for the discharge of the Constituent Council’s statutory obligations (“Reserved Matters”).
- 36. Except for the Reserved Matters listed in Appendix 2, the Constituent Councils agree that all day to day decisions relating to the business of TWAM which are made in accordance with the Strategic Board’s business plan from time to time approved (the “Business Plan”) shall be made by the Strategic Board acting collectively.
- 37. The matters identified in Appendix 2 as being within the scope of the Strategic Board’s authority may only be carried out with the agreement of the Reserved Matter Members unless such matters are set out in the Business Plan for the period in question which has been approved by the Reserved Matter Members, in which case, the Reserved Matter Members shall be deemed to have consented to such matter.
- 38. In relation to decisions made in relation to Reserved Matters, whilst the Independent and University Members may contribute fully in the debate leading up to such decision, all members recognise that, at law, only Reserved Matter Members can exercise a vote on such decision and be regarded as voting members of the Strategic Board.

39. In the event of dispute or doubt as to whether or not a decision amounts to a Reserved Matter, the question shall be directed to the heads of legal services at the Constituent Councils who shall, acting together, make a determination, recognising the need to make such determination promptly in order not to stifle the business of TWAM and the activity of the Strategic Board.

Meetings and proceedings

40. The Strategic Board shall meet at least four times a year and at such other times as it considers necessary to achieve its Objectives and fulfil its Functions.
41. The Chair may call a meeting of the Strategic Board at any time and shall do so upon written requisition of two members. The Secretary shall send (by post, e-mail or personally) to every member at least seven days before a meeting of the Strategic Board a notice confirming the date, time and location of the meeting specifying the business proposed to be transacted thereat.
42. Meetings may take place by video conference or conference telephone or similar means to allow every member to take part in the meeting.
43. In the absence or unwillingness of the Chair, the Vice Chair shall chair meetings of the Strategic Board. In the absence or unwillingness of the Chair and the Vice Chair, the members of the Strategic Board may elect a chair for the meeting from amongst its members present.
44. Save in relation to the Reserved Matters, and subject to paragraph 51, and unless otherwise stated herein, every matter arising at a meeting of the Strategic Board or a sub-committee thereof shall be decided by a majority of the votes of the members present and voting on the question and in the case of an equality of votes the chair of the meeting shall have an additional and casting vote.
45. No matter which is a Reserved Matter shall be voted on unless the Reserved Matter Members present at the meeting vote in favour of the same.

46. Any five members of the Strategic Board shall form a quorum provided that the Elected Members and Rotating Members present at a meeting shall be in the majority.
47. The Strategic Board may permit other persons to attend and speak at their meetings save that such persons shall not be entitled to vote.
48. Subject to paragraphs 34.b and 34.c, the quorum of a sub-committee of the Strategic Board shall be one third of all of the members of that sub-committee provided that in no case shall the quorum be less than two members and provided that Elected Members and the Rotating Members are in the majority.
49. Decisions of the members may be made either:
 - a. By resolution at a meeting; or
 - b. By resolution in writing in accordance with paragraph 50.
50. A resolution in writing signed by the members entitled to receive notice of a meeting of the Strategic Board shall be as valid as if it had been passed at a meeting of the Strategic Board duly convened (even if it consists of several documents in the like form each signed by one or more members), provided that:
 - c. the resolution is passed by the requisite number of members as would have been required to pass it at a meeting;
 - d. a copy of the proposed resolution has been sent to all the members eligible to vote;
 - e. the document signifying a member's agreement is authenticated by their signature, by a statement of their identity accompanying the document, and received at the principal office within 28 days beginning with the circulation date;
 - f. in the case of Reserved Matters, only (and all of) the Reserved Matter Members have confirmed their agreement to the resolution in writing.

Conflicts of interest

51. A member who has a conflict of interest in relation to business transacted at a meeting of the Strategic Board or of a sub-committee thereof (“Business”) must:
- g. at the outset of the meeting declare the nature and extent of his/her interest (either direct or indirect) before discussion on the Business;
 - h. withdraw from the meeting for discussion of the Business unless expressly invited to remain in order to provide information;
 - i. not be counted in the quorum for the part of the meeting during which the Business is discussed; and
 - j. withdraw during the vote on the Business and have no vote on the matter.

The minutes of the meeting shall confirm the actions taken to manage the conflict of interest in this regard.

52. An Elected Member, the University Member or a Rotating Member who is also a member, officer or employee of a Constituent Council or the University as the case may be, shall not be regarded as conflicted by virtue only of the fact that s/he is a member, officer or employee of a Constituent Council or of the University (as applicable).

Reporting requirements

53. The Strategic Board shall keep minutes of its meetings and a copy of those minutes, once approved by the Strategic Board, shall on request be made available to the Constituent Councils, including by publishing on TWAM’s website.
54. The minutes of each meeting of the Strategic Board shall clarify which decisions were made in relation to Reserved Matters and confirm that only Reserved Matter Members voted in relation to the same.

55. The Constituent Councils may, from time to time at their discretion seek any further information from the Strategic Board in relation to the performance of its Objectives and discharge of its Functions.
56. The Strategic Board shall, if requested, produce and present to the Constituent Councils a written report outlining the Strategic Board's work and activities over the preceding period.

Variation or termination

57. These terms of reference shall remain in force until varied or revoked by the members.

Appendix 1

Appointment of Independent Members and the Chair – Nominations Protocol

1. To ensure the continuing and effective functioning of the Strategic Board, the relevant processes set out in this Appendix shall be followed to appoint the Independent Members and the Chair.
2. The Lead Authority shall coordinate the appointment of Independent Members, and the Chair by the Constituent Councils by:
 - a. where the Lead Authority considers appropriate, advertising any vacancy for an Independent Member or the Chair within [time period] of that vacancy arising or within [time period] of the Lead Authority becoming aware of the vacancy being likely to arise;
 - b. inviting applications to be submitted to the Lead Authority within [time period] of the date that the vacancy is advertised pursuant to paragraph 2a (if it is advertised) or otherwise, within [time period] of the date on which the vacancy arose (the “Closing Date”);
 - c. together with the Constituent Councils, considering applications from potential candidates and deciding which candidates to interview;
 - d. making arrangements for the Constituent Councils to form a panel to interview applicants within [time period] of the Closing Date;
 - e. liaising with each of the Constituent Councils following such interviews, and reaching agreement on the person(s) (if any) that they wish to appoint to fill the position. If the Constituent Councils cannot reach agreement by consensus on any one or more candidates, they will repeat the above process until agreement is reached;
 - f. once agreement is reached, the Lead Authority shall notify the successful candidate(s) of their appointment as an Independent Member (and in the case of the Chair, his/her appointment as Chair);
 - g. notifying unsuccessful candidates that they have not been appointed to the Strategic Board.

In recommending, and either accepting or rejecting, an individual for appointment as an Independent Member, the Lead Authority and the Constituent Councils must have regard to (i) the skills, knowledge, experience and diversity needed for the Strategic Board to successfully deliver its Objectives and fulfil its Functions; and (ii) the Strategic Board's and TWAM's commitment to equal opportunities and the avoidance of discrimination.

The Chair will, once appointed in accordance with this Nominations Protocol, sit on the panel together with the Constituent Councils to interview candidates for Independent Members.

3. At least three months prior to expiry of an Independent Member's term of office or the Chair's term of office (as applicable), the Lead Authority must approach that Independent Member or the Chair and ask them to confirm in writing, and within 28 days of the approach, whether they are likely to stand again for a further successive term (if so permitted to stand again by these Terms of Reference).
 - a. If the Independent Member or the Chair (a) fails to confirm whether they will stand again; or (b) confirms that they will not stand again; or (c) is not permitted by the Terms of Reference to stand for a successive term, the process set out in paragraph 2 must immediately be followed.
 - b. If the Independent Member or the Chair confirms that they will stand again for a successive term, and that Independent Member or the Chair is permitted to so stand again under these Terms of Reference, then in good time prior to expiry of the Independent Member's or the Chair's current term:
 - i. the Lead Authority shall write to each Constituent Council to (a) inform them that the Independent Member or the Chair intends to stand again for a successive term and is permitted to do so under these Terms of Reference; and (b) give each Constituent Council [insert time period] to confirm whether they agree to the re-appointment of that Independent Member or that Chair. If a

member fails to respond within [insert time period] they will be deemed to agree to the re-appointment.

1. If no objections are received to the re-appointment, the Lead Authority shall write to the relevant Independent Member or the Chair (with copy to all members) to confirm their re-appointment, such appointment to be effective immediately upon expiry of their current term.
 2. If at least one objection is received, and the Lead Authority, acting reasonably, agrees with the rationale provided for the objection(s) the process set out in paragraph 2 of this Appendix must promptly be followed.
4. Subject to paragraph 0 of this Appendix, as soon as (a) the Lead Authority becomes aware that a vacancy for an Independent Member or the Chair has arisen; or (b) the Lead Authority becomes aware that a vacancy for an Independent Member or the Chair is likely to arise, whichever is earlier, the process set out in paragraph 2 of this Appendix must be followed. For the avoidance of doubt, if any member becomes aware that a vacancy for an Independent Member or a Chair has arisen or is likely to arise then they must, as soon as reasonably practicable, inform the Lead Authority.

Appendix 2

Reserved Matters

The following matters shall be deemed “Reserved Matters” for the purpose of the Terms of Reference:

1. Financial

- 1.1. Adoption of the annual budget and any variation to the same.
- 1.2. Expenditure in any one year on capital account of over limits from time to time under OJEU (or equivalent) in one transaction or series of transactions where those transactions are required by regulation 6 of the Public Contracts Regulations 2006 (or any successor legislation) to be aggregated for the purpose of calculating whether the relevant OJEU threshold is exceeded unless provided for in the relevant Business Plan.
- 1.3. Approval of appointment of new auditors.
- 1.4. Related party dealings with any members of the Strategic Board or connected persons.
- 1.5. Appointment of new bankers and change of authorised signatories to the bank accounts.
- 1.6. Change in accounting or taxation policies of TWAM.
- 1.7. Appointing any consultant, agent or other intermediary to conduct any aspect of the business other than any such appointment in the normal course of business and at a cost of more than the limits under OJEU (or equivalent) from time to time.
- 1.8. TWAM extending its activities outside the scope of the Business Plan, or closing down any business operation.
- 1.9. Approval or signing of the annual accounts.
- 1.10. Approval of the sublicensing of TWAM’s name or logo.
- 1.11. Disposal of items in the TWAM collections.

2. Management, directors and employees

- 2.1. Engagement by TWAM of new employees with remuneration in excess of, or dismissal of employees with remuneration in excess of £75,000 per annum.
- 2.2. Proposed appointment or removal of any Strategic Board member and appointment of any sub-committee member.
- 2.3. Devolution or transfer of management control of TWAM to persons outside the agreed Strategic Board.
- 2.4. Payment of any fees, remuneration or other emoluments to Strategic Board Members or varying any such fees, remuneration or emoluments.

3. Share / loan capital and constitutional matters

- 3.1. Creation, acquisition or disposal of any subsidiary (or shares in a subsidiary) of TWAM.
- 3.2. Capitalisation of profits or reserves of TWAM – e.g. proposal to convert income into a capital fund.
- 3.3. Change of name of TWAM.
- 3.4. Change in the status of TWAM from a joint local authority service.
- 3.5. Entry into any reconstruction, consolidation or amalgamation with any company, association, partnership or legal entity or the acquisition of any business or undertaking of any other person e.g. proposing to merge with another company.

Appendix 3

Code of Conduct

[NB this Code, when ready should contain reference to the Nolan Principles and compliance with Lead Authority's code of conduct]

APPENDIX 3

DATED 2017

Confidential

Heads of Terms for Joint Venture Trading Company
relating to TWAM

CONFIDENTIAL

HEADS OF TERMS FOR JOINT VENTURE RELATING TO TWAM TRADING SUBSIDIARY

These heads of terms are for discussion purposes only and are to be treated as and kept strictly confidential.

Apart from where expressly stated, these heads of terms do not create any legally binding obligations but are a clear indication of the basis/terms on which the JV Partners (defined below) wish to establish the JV.

Once agreed by JV Partners, these heads of terms will be used to draw up Articles of Association and Shareholders' Agreement (**Governance Documents**) governing the JV Company (defined below). These Governance Documents will need to be formally approved by the JV Partners in due course and will be legally binding.

HEADS OF TERMS

The principal terms of the proposed joint venture are as follows:

JV PARTNERS.

The JV Partners will be:

- Gateshead Council (**GC**);
- Newcastle City Council (**NCC**);
- North Tyneside Council (**NTC**);
- South Tyneside Council (**STC**); and
- The University of Newcastle (**UNI**).

who together will be shareholders of the **JV Company**.

JV STRUCTURE

The JV will be established as an English company limited by shares under Companies Act 2006 (**JV Company**).

SHAREHOLDERS IN JV AND INITIAL SHARE CAPITAL

The JV Partners will be equal (20%) shareholders in the JV Company.

JV Company will be established with nominal share capital of 100 shares, with each JV Partner subscribing for 20 shares on incorporation.

INITIAL AND FURTHER FUNDING

JV shall be initially funded through TWAM's existing budget

No legal obligation on JV Partners to provide funding in excess of the funding already allocated to TWAM's existing budget.

Any further funding for the JV (whether by equity or debt or external finance) is to be unanimously agreed between the JV Partners.

No JV Partner will have any obligation to guarantee the availability of any such funding or to guarantee repayment of any third party indebtedness.

CONSTITUTIONAL MATTERS

Name of JV – “TWAM Enterprises Ltd”.

Objects – to operate as a general commercial company (without limitation) for purpose of making profits for distribution for benefit of Museums and Archives Services across the TWAM operation.

Powers – all powers at law to do anything in order to achieve the objects.

Registered office – Discovery Museum’s address

Company Secretary (if required) - TWAM Finance Director

GOVERNANCE

Board of Directors:

To be between 3 – 7 in number

To include:

TWAM Director – ex officio

TWAM Head of Finance, Governance and Resources - ex officio

one director appointed by the TWAM Strategic Board, which shall be an elected member of the Strategic Board

up to four independent directors, appointed by other directors

Chair of JV Board to be appointed by the JV Partners as a Major Decision, Category A.

Chair of the JV Board to have a second or casting vote at meetings of the Board

Proceedings of the Board of directors:

Board to meet at least 4 times per year

Meetings to be held at registered office

Quorum for meetings to be 3 to include at least 2 independent directors

Directors not able to appoint alternates to attend Board meetings on their behalf

Board decisions:

Save for “Major Decisions” (see below), board decisions shall be decided by simple majority of Directors.

Major Decisions will require agreement of JV Partners. Category A Major Decisions will require consent of **all** JV Partners. Category B Major Decisions will require consent of **majority** of JV Partners.

Note that any action/activity/decision that is within the annual business plan of the JV will not be deemed a Major Decision as JV Partners will have approved in advance. Therefore, once a matter is included in an approved business plan no further approval will be required.

Category A decisions – unanimity of JV Partners required

- approval of annual business plan (including budgets);
- material changes to the business plan/adoption of new business plan;
- approving changes to the accounting policies/principles of the JV;
- change of name;
- appoint Chair of Directors
- any borrowing by the JV;
- JV giving any security or guarantees;
- change of corporate structure of JV;
- amendment of Articles of Association;
- amendment of Shareholders' Agreement;
- admission of new shareholders/issue of new shares (see below);
- any transfer/disposal/charging of shares by existing shareholder;
- creation of any classes of shares or variation to the same;
- issue of further shares to any JV Partner;
- re-purchase of shares from any JV Partner or cancellation of the same (see below);
- establishing any subsidiary of JV;
- approving the distribution of profits, approving/amending a distribution policy applicable to the JV or any other form of return of capital;
- sale of any JV assets other than in ordinary course of business or with a value in excess of £50,000;
- acquiring assets (including property assets and interests) other than in the ordinary course of business or with a value in excess of £50,000;
- entering into contract or arrangement with JV Partner (but decision to exclude JV Partner concerned) (excluding Shareholders' Agreement);
- closing/winding up the JV or taking any steps in anticipation of doing so;
- JV entering into any further JV arrangement, partnership or other collaboration with a third party or merging or amalgamating with the same;
- JV expanding business activities outside those of the agreed business plan or closing down any business operation;

JV terminating any agreement of a material/fundamental nature in the context of its business or making any material amendment to such agreement

removal of any director;

initiation/settlement of legal proceedings involving amounts in excess of £50,000 (excluding the enforcement of the management contracts referred to below);

entering into any contract or commitment of JV which is material in nature or which has a value of or likely to involve expenditure in excess of £50,000 or making a variation to any existing contract or commitment which would have such effect;

engaging any senior employees or engaging any employee, appointing any consultant, agent or contractor with an annual fee/salary in excess of £50,000 or varying the terms of any such engagement which would have such effect.

Category B decisions – decision of majority JV Partners required

establishing any pension scheme, share scheme or similar arrangement for employees;

change of JV's financial year end;

change of auditors;

change of registered office;

acquisition of shares, debentures or securities (eg investment) in any other person or company;

any related party transaction, arrangement or dealings between JV and a director(s);

appointment and variation of bankers and bank mandates;

transfer of control of company management to any other person;

any payment of fees, remuneration or other benefits to a director (other than reasonably and properly incurred expenses).

Shareholder matters (general):

JV Partners to appoint nominated representative to represent JV Partner at general meetings;

Nominated representative to act on instruction of JV Partner and represent their views;

JV Partners to recognise and acknowledge the interests of the JV and to put forward its views and make decisions with this in mind;

JV Partners to acknowledge that delay in decision making will have adverse impact on JV business and therefore endeavour to make decisions swiftly and decisively.

Shareholder proceedings:

Shareholders to meet annually for purpose of agreeing annual business plan and budget.
Timings set by Directors accordingly;

Other meetings to be held as and when required;

Quorum for shareholder meetings to be 3, unless Category A Major Decision required, in which case, all shareholders must be present through an authorised representative;

Decisions to be taken by majority, unless Category A Major Decision required;

Chair of general meetings to be chair of Directors;

All shareholders to have one vote.

DISTRIBUTION OF PROFITS TO SHAREHOLDERS

The JV Partners agree that the intention is that profits of the JV Company, after deduction of normal working capital costs should be paid to TWAM Development Trust by way of a donation to the Trust and the donation should be made in the relevant financial year that the profits are generated. The level of donation to be proposed by the Directors bearing in mind the cashflow needs of the JV and approved as a Category A decision. Any change to this policy will have to be approved by all JV Partners as Category A Major Decision.

Distribution/donation policy to incorporate the following principles:

No distribution to be made to the JV Partners as the intention is that all profits of the JV Company will be paid to the Trust by way of a donation in the relevant financial year;

Donations only to be paid from available profits;

Objective to minimise tax liability (to extent possible) by paying donations to TWAM Development Trust during the relevant financial year;

Directors to determine how much to retain within JV by way of working capital;

Distributions to TWAM Development Trust to be made on a restricted basis, with TWAM Development Trust using funds received for re-investment in the sector (such re-investment to be allocated on a pro rata basis across the TWAM services/locations based on JV trading income generated from/by such services/locations);

JV Partners not obliged to provide further funding to cover losses, but may agree to do so and, if so, terms to be agreed at that time, recognising that if not all JV Partners contribute equally, this will have an impact on Distributions Policy.

ADMISSION OF NEW PARTNERS/SHAREHOLDERS

Category A Major Decision requiring unanimous consent of JV Partners.

Before admitting any new shareholder, consider benefits and drawbacks, and alternatives, such as provision of services through contract;

No new shareholders admitted within 2 years of JV incorporation;

New shareholders only to be admitted on terms agreed and appropriate at the relevant time and considering:

a valuation of the business of the JV by a qualified and independent accountant at the relevant time;

financial contribution to the JV by any proposed new shareholder at relevant time (to take into account business valuation (above), amount of outstanding JV Partner loans plus any further contributions made);

impact of admission on distributions policy in place at the relevant time.

New shareholders to sign up to deed of adherence to Shareholders' Agreement.

DEADLOCK SITUATIONS (WHEN AGREEMENT CANNOT BE REACHED ON MATTERS)

If a decision cannot be reached by shareholders on a matter at a general meeting or in relation to a Major Decision, a further meeting will be called within 14 days to re-consider the matter.

If JV Partners still cannot reach agreement, then the matter is escalated as per below.

Directors notify CEO of JV Partner that deadlock has arisen and set out the relevant circumstances, with copies to JV Partner authorised representatives.

CEO of each JV Partner to discuss the matter with their authorised representative and confirm in writing their position to the Directors, with copies to other JV Partners.

CEO of each JV Partner to meet to discuss the issue and, where possible, reach agreement, recognising that the JV's business may be hampered during this time and therefore swift resolution required.

Where agreement of CEOs is reached at this stage, meeting re-convened and decision made.

Where agreement still not reached, JV appoints an agreed person to act as mediator in order to facilitate resolution on the issue.

Where agreement still cannot be reached, then JV Partners refer the matter to an independent arbitrator whose decision will be final and binding on the JV Partner.

DISPUTE RESOLUTION

Informal methods of dispute resolution preferable.

Disputes in relation to interpretation of Articles or Shareholders' Agreement shall be referred to an external firm of solicitors, whose decision shall be final.

Disputes in relation to decision making by JV Partners shall be as set out in clause 9.

Any other disputes to be dealt with in accordance with the following:

Aggrieved JV Partner to give notice to the Directors setting out nature of dispute;

Directors to notify other JV Partners that dispute has arisen;

Directors to call meeting of the JV Partners to discuss the matter and, where possible, reach agreement for resolution;

Where agreement cannot be reached, the process in clause 10.5 is followed.

CEO of each JV Partner to meet to discuss the dispute and, where possible, reach agreement, recognising that the JV's business may be hampered during this time and therefore swift resolution required.

Where resolution of CEOs is reached at this stage, they will notify the Directors of the position in writing.

Where agreement still not reached, matter is referred to mediation and failing resolution, thereafter referred to binding arbitration.

EXIT OF MEMBERS

Voluntary:

Notice to Directors in writing;

Presume share value still nominal as profits distributed through TWAM Development Trust. If not the case, valuation of shares carried out by independent accountant;

JV has first option to buy-back shares out of distributable profits;

If JV is unable or unwilling to buy-back shares, then the exiting shareholder will have the right to oblige the other JV Partners to acquire the shares at nominal value (i.e. £20).

Compulsory:

On winding up, dissolution, insolvency act;

Material and un-remedied breach of Shareholders' Agreement;

Actions of JV Partner bring JV (or TWAM) into disrepute (in reasonable opinion of other JV Partners).

On compulsory exit as per clause 11.2, defaulting JV Partner deemed to have issued notice to the Directors. Provisions of clause 11.1.2 – 11.1.4 then apply. All rights of defaulting JV Partner cease from point of notice.

JV Partners to have power to expel a shareholder who has acted in breach of the Shareholders' Code of Conduct in accordance with prescribed procedure (allowing for representations from said "naughty" shareholder).

Alternatively, in event of JV Partner exit, whether voluntary or compulsory, JV could commence orderly winding up of JV.

Include initial lock in period of two years during which JV Partner cannot exit voluntarily and/or JV cannot be wound up.

TIMINGS

Heads of Terms to be agreed and signed by JV Partners by end of March 2017.

Articles of Association and Shareholders' Agreement to be signed as soon as possible thereafter.

APPROVALS

The final signing completion of the legal documents requires formal approval of

For GC

For NCC

For NTC

For STC

For UNI

LEGALLY BINDING PROVISIONS

It is intended that the provisions of this paragraph 14 shall be binding on each of the parties to the proposed JV in accordance with its terms.

Except as required by law or any regulatory body of competent jurisdiction (and then only after the fullest consultation with all other parties to these heads of terms as is practicable in the circumstances) no party shall disclose or make any announcement regarding the proposed joint venture or to the effect that any discussions or negotiations are taking or have taken place between the parties without the prior consent of the other. This will not prevent disclosure of information to relevant advisers and financiers who are made aware of the confidentiality of such information.

The costs and expenses incurred relating to the definitive transaction documentation shall be met from the TWAM annual budget shared equally by the JV Partners. Each JV Partner will be responsible for its own legal costs and representations regarding these heads of terms.

These heads of terms will not, and are not intended to, create any terms which are enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to the proposed joint venture.

These heads of terms shall be governed by, and construed in accordance with, English law.

IN WITNESS whereof the parties have caused their respective Common Seals to be hereunto affixed the day and year first before written.

THE COMMON SEAL OF THE BOROUGH

COUNCIL OF GATESHEAD

was hereunto affixed in the presence of:

)
)
)
)
)

Mayor

Strategic Director of Legal
and Corporate Services

THE COMMON SEAL OF THE COUNCIL

OF THE CITY OF NEWCASTLE UPON TYNE

was hereunto affixed in the presence of:

)
)
)
)
)

Lord Mayor

Assistant Director Legal Services

THE COMMON SEAL OF THE BOROUGH

)

COUNCIL OF NORTH TYNESIDE

)

was hereunto affixed in the presence of:

)

)

)

Mayor

Head of Legal and Democratic
Services and Monitoring Officer

THE COMMON SEAL OF THE COUNCIL OF

)

THE BOROUGH OF SOUTH TYNESIDE

)

was hereunto affixed in the presence of:

)

)

)

Mayor

Head of Legal Services

THE COMMON SEAL OF THE UNIVERSITY OF

)

NEWCASTLE UPON TYNE

)

was hereunto affixed in the presence of:

)

)

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2017

Articles of Association

THE COMPANIES ACT 2006
COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION
OF
TWAM ENTERPRISES LTD (COMPANY)

1. EXCLUSION

- 1.1 Except as provided for in these Articles, the Model Articles and any regulations set out in any statute or in any statutory instrument made under any statute concerning companies and which prescribe regulations as articles of association, shall be excluded from these Articles in their entirety and shall not apply to the Company. The following shall be the Company's articles of association.

PART 1

INTERPRETATION AND LIMITATION OF LIABILITY

2. INTERPRETATION

- 2.1 In these Articles the following expressions have the following meanings:

Act	the Companies Act 2006.
Articles	the Company's articles of association for the time being in force.
Business Plan	the Initial Business Plan and any detailed operating plan and financial budget of the Company for subsequent financial periods approved in accordance with the terms of the Shareholders' Agreement.
Category A Major Decision	a decision on an issue listed in the Shareholders' Agreement which can only be validly made in accordance with Article 9.1 (Major Decisions).
Category B Major Decision	a decision on an issue listed in the Shareholders' Agreement which can only be validly made in accordance with Article 9.1 (Major Decisions).
certificate	a paper certificate evidencing a person's title to specified shares.
Chair	the chair of directors appointed under these Articles.
Conflict	has the meaning given in Article 17.1 (Directors' Interests and

	Conflicts).
Donations Policy	the policy adopted by the Company which sets out how profits of the Company, after deduction of normal working capital costs, shall be distributed and / or donated.
director	a director of the Company, and includes any person occupying the position of director, by whatever name called.
eligible director	a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter).
ex officio	has the meaning specified in Article 22.2.1.
fully paid	in relation to a share, means that the nominal value and any premium to be paid to the Company in respect of that share have been paid to the Company.
holder	in relation to shares means the person whose name is entered in the register of shareholders as the holder of the share.
Independent Director	a director who is not a shareholder, employee or officer of a JV Partner.
Initial Business Plan	the business plan in a form agreed by all of the JV Partners for the financial period from [insert] to [insert] as set out in the Shareholders' Agreement.
JV Partners	each of the following: <ol style="list-style-type: none"> 1. Gateshead Council; 2. Newcastle City Council; 3. North Tyneside Council; 4. South Tyneside Council; and 5. The University of Newcastle <p>(individually a "JV Partner" and a founding shareholder).</p>
Major Decisions	the Category A Major Decisions and Category B Major Decisions set out in the Shareholders' Agreement.
Model Articles	the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles.

ordinary resolution	has the meaning given in section 282 of the Act.
Seller	the meaning specified in Article 34.1 (Pre-emption Procedure for Transfer of Shares).
shareholder	a person who is the holder of a share. Each shareholder is deemed to be a "shareholder" for the purpose of section 112 of the Act.
Shareholders' Agreement	the shareholders' agreement entered into at the date of these Articles between the Company and the JV Partners as from time to time amended.
Shareholders' Code of Conduct	the Company's code of conduct for shareholders as from time to time amended.
shares	shares in the Company.
special resolution	has the meaning given in section 283 of the Act.
subsidiary	has the meaning given in section 1159 of the Act.
TWAM	the Tyne and Wear Archives and Museums services.
TWAM Development Trust	the Tyne and Wear Archives and Museums Development Trust (company number 07334262, charity number 1137867).
TWAM Strategic Board	the strategic board established to oversee the management and administration of TWAM or any body which succeeds its purposes.

2.2 In these Articles:

- 2.2.1 a reference to a **disposal** includes a sale, transfer, assignment, charge, mortgage, subscription, renunciation, nomination or other disposition whereby a person ceases to be the absolute beneficial owner of the share in question or voting rights attached to such share and also includes an agreement (or more than one agreement) to enter into such a disposal or the grant of a right to compel entry into such agreement and **dispose** shall be construed accordingly;
- 2.2.2 unless otherwise stated in these Articles, notices and any communications to be given under the Articles, including any Transfer Notice, must be given in writing and for these purposes writing does not include "electronic form" (as defined in section 1168 of the Act) or any form of electronic communication;
- 2.2.3 the singular includes the plural and vice versa;
- 2.2.4 references to persons include bodies corporate, unincorporated associations, governments, states, partnerships and trusts (in each case, whether or not having separate legal personality);
- 2.2.5 a reference in these Articles to an **Article** is a reference to the relevant article of these Articles unless expressly provided otherwise;

- 2.2.6 unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time;
- 2.2.7 the headings in these Articles are for convenience only and shall not affect the interpretation of these Articles; and
- 2.2.8 general words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things.

3. LIABILITY OF SHAREHOLDERS

- 3.1 The liability of the shareholders is limited to the amount, if any, unpaid on the shares held by them.

PART 2

DIRECTORS

DIRECTORS' POWERS AND RESPONSIBILITIES

4. THE DIRECTORS' GENERAL AUTHORITY

- 4.1 Subject to the Articles and the Shareholders' Agreement, the directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

5. THE JV PARTNERS' RESERVE POWERS

- 5.1 Subject to the Shareholders' Agreement, the JV Partners may, by special resolution, direct the directors to take, or refrain from taking, specified action.
- 5.2 Subject to Article 5.3, no such special resolution invalidates anything which the directors have done before the passing of the resolution.
- 5.3 If the directors or a director carries out or permits the carrying out of a Major Decision without the prior written consent of the JV Partners in accordance with the terms of these Articles and the Shareholders' Agreement, that action and shall be invalid so far as the Company is concerned.

6. DIRECTORS MAY DELEGATE

- 6.1 Subject to the Articles, the directors may delegate any of the powers which are conferred on them under the Articles:
 - 6.1.1 to such person or committee;
 - 6.1.2 by such means (including by power of attorney);
 - 6.1.3 to such an extent;
 - 6.1.4 in relation to such matters or territories; and
 - 6.1.5 on such terms and conditions;

as they think fit.

- 6.2 If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.
- 6.3 The directors may revoke any delegation in whole or part, or alter its terms and conditions.
- 6.4 Anyone acting with delegated authority from the directors shall, in no circumstances, be entitled or authorised to make a Major Decision.

7. COMMITTEES

- 7.1 Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the Articles which govern the taking of decisions by directors.
- 7.2 The directors may make rules of procedure for all or any committees provided they are consistent with the Articles and the Shareholders' Agreement.

DECISION-MAKING BY AND PROCEEDINGS OF DIRECTORS

8. MAJORITY DECISIONS

- 8.1 Save for Major Decisions, all directors' decisions shall be taken by either a simple majority of the eligible directors present at a meeting of the directors, or by resolution in writing (which may comprise either a single document or several documents containing the text of the resolution to which the majority of all directors have signified their agreement).

9. MAJOR DECISIONS

- 9.1 Major Decisions taken by the directors will require the prior written consent of the JV Partners before the decisions are effective and valid. Category A Major Decisions will require the prior written consent of all of the JV Partners. Category B Major Decisions will require the prior written consent of a majority of the JV Partners.

10. QUORUM FOR MEETINGS

- 10.1 At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 10.2 The quorum for directors' meetings shall be at least three directors and shall include at least two Independent Directors.
- 10.3 If the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision to appoint further directors.

11. CALLING A DIRECTORS' MEETING

- 11.1 Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

- 11.2 Subject to Article 15.1 (Frequency of Meetings), notice of any directors' meeting must indicate:
- 11.2.1 its proposed date and time; and
 - 11.2.2 where it is to take place.
- 11.3 Notice of a directors' meeting must be given to each director, but need not be in writing.
- 11.4 Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

12. PARTICIPATION IN DIRECTORS' MEETINGS

- 12.1 Subject to the Articles, directors participate in a directors' meeting, or part of a directors' meeting, when the meeting has been called and takes place in accordance with the Articles.

13. CHAIR AND CASTING VOTE

- 13.1 The Chair shall be appointed annually by the JV Partners, as a Category A Major Decision, from amongst the directors. The Chair shall act as chair at all meetings of the directors unless he is unwilling or unable to do so, in which case, the directors present shall appoint one of their number to chair the meeting.
- 13.2 In the event of equality of votes, the Chair shall have a second or a casting vote, but the Chair shall not have a second or casting vote in relation to a Major Decision which has not been approved by the JV Partners in accordance with these Articles.

14. FREQUENCY OF MEETINGS

- 14.1 The directors shall meet at least four times per year.

15. LOCATION OF MEETINGS

- 15.1 All board meetings shall be held at the Company's registered office address unless the directors agree in writing otherwise.

DIRECTORS' INTERESTS AND CONFLICTS

16. TRANSACTIONS OR ARRANGEMENTS WITH THE COMPANY

- 16.1 Subject to sections 177(5), 177(6), 182(5) and 182(6) of the Act and provided he/she has declared the nature and extent of his/her interest in accordance with the requirements of the Act, a director may vote as a director or be entitled to participate in any unanimous decision of the directors in regard to any transaction or arrangement with the Company in which he/she is interested or upon any matter arising therefrom and if he/she shall so vote or participate, his/her vote or participation shall be counted and he/she shall be reckoned in estimating any relevant quorum.

17. DIRECTORS' CONFLICTS OF INTEREST

- 17.1 The directors may, for the purposes of and subject to the provisions of section 175 of the Act, authorise any matter or situation which would, if not authorised, involve a director infringing his/her duty under that section to avoid a situation in which he/she has or can have a direct or indirect interest that conflicts with or may possibly conflict with the interests of the Company (**Conflict**). The directors may give any such authorisation subject to such terms, limits and conditions as they shall consider appropriate in the circumstances.
- 17.2 Where the directors authorise a Conflict, the director whose Conflict has been so authorised will not infringe any duty he/she owes to the Company under sections 171 to 177 of the Act if he/she acts in accordance with the terms, limits and conditions (if any) as the directors impose in respect of that authorisation.
- 17.3 A director shall not be regarded as conflicted by virtue only of the fact that he/she is an employee, director, officer or elected member of the JV Partners or shareholders, a shareholder of the TWAM Strategic Board or a shareholder, trustee or officer of the TWAM Development Trust.
- 17.4 Any question about whether a director has a conflict of interest shall be referred to the Chair, whose decision shall be final and, in the case of a conflict of interest for the Chair, shall be referred to the directors to make that determination.
- 17.5 If a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chair whose ruling in relation to any director other than the Chair is to be final and conclusive.
- 17.6 If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chair, the question is to be decided by a decision of the directors at that meeting, for which purpose the Chair is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

18. BENEFITS

- 18.1 A director is not required, by reason of being a director, to account to the Company for any remuneration, profit or other benefit which he/she or a person connected with him/her (as defined in section 252 of the Act) derives from any transaction or arrangement referred to in Article 16 (Transactions or arrangements with the Company) or which derives from or is in connection with a Conflict which has been authorised by the directors or by the Company (subject in each case to any terms, limits or conditions attaching to that authorisation) and no such transaction, arrangement or other contract shall be liable to be avoided on such grounds and the receipt of any such remuneration, profit or benefit shall not constitute a breach of his/her duty under section 176 of the Act.

19. RECORDS OF DECISIONS TO BE KEPT

- 19.1 The directors must ensure that the Company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

20. DIRECTORS' DISCRETION TO MAKE FURTHER RULES

- 20.1 Without prejudice to Article 9 (Major Decisions), the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

APPOINTMENT OF DIRECTORS

21. NUMBER OF DIRECTORS

- 21.1 Unless otherwise determined by ordinary resolution, the number of directors shall not be less than three and not more than seven.

22. APPOINTMENT OF DIRECTORS

- 22.1 Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director in accordance with the terms of these Articles and provided that the maximum number of directors permitted under Article 21.1 (Number of directors) is not exceeded.

22.2 Ex officio directors

- 22.2.1 The two persons from time to time holding the position of TWAM Director and TWAM Head of Finance, Governance and Resources for the time being together (the "**office holders**") shall automatically, by virtue of holding those offices ("**ex officio**"), be directors of the Company.

- 22.2.2 If unwilling to act as a director, the relevant office holder may:

- (a) before accepting appointment as a director, give notice in writing to the directors of his/her unwillingness to act in that capacity; or
- (b) after accepting appointment as a director, resign in accordance with the terms of these Articles.

The relevant office of ex officio director will then remain vacant until the office holder ceases to hold office.

22.3 Nominated directors

- 22.3.1 The TWAM Strategic Board may appoint one director.

- 22.3.2 Any appointment must be made at a meeting held according to the ordinary practice of the TWAM Strategic Board.

- 22.3.3 Each appointment shall be for a term of four years, subject to a maximum of two consecutive terms.

- 22.3.4 The appointment will be effective from the later of:

- (a) the date of the vacancy; or

(b) the date on which the Company is informed of the appointment.

22.3.5 The person appointed must be an elected member of the Strategic Board.

22.3.6 The TWAM Strategic Board may from time to time remove their appointed director and appoint a replacement in accordance with the above process.

22.4 Independent Directors

22.4.1 The directors may appoint up to and including four Independent Directors.

22.4.2 Save for the first Independent Directors, who shall serve in office for the terms set out immediately below, the appointment of each Independent Director shall be for a term of four years, subject to a maximum of two consecutive terms.

22.4.3 The first Independent Directors shall be the persons named below who shall serve in office for the following terms:

(a) [insert name] for a period of two years.

(b) [insert name] for a period of three years.

(c) [insert name] for a period of three years.

(d) [insert name] for a period of four years.

22.4.4 The first Independent Directors may be re-appointed at the end of their initial term for one further term of four years.

22.5 Miscellaneous

22.5.1 Notwithstanding the other provisions above of this Article 22, in exceptional circumstances and where the best interests of the Company require, the term of office of a director may be extended after they have served the maximum number of consecutive terms permitted in the provisions above, but on a rolling one year basis and only with the prior written agreement of all of the JV Partners.

22.5.2 Any person who retires as a director by reason of them having served the maximum number of successive terms permitted under these Articles is eligible for re-appointment after four years has lapsed from the date of retirement, and may be so re-appointed in accordance with the terms of these Articles.

23. TERMINATION OF A DIRECTOR'S APPOINTMENT

23.1 A person ceases to be a director as soon as:

23.1.1 that person ceases to be a director by virtue of any provision of the Act or is prohibited from being a director by law;

23.1.2 a bankruptcy or similar order is made against that person;

- 23.1.3 a composition is made with that person's creditors generally in satisfaction of that person's debts;
- 23.1.4 a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
- 23.1.5 notification is received by the Company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms, provided that at least three directors remain in office;
- 23.1.6 he/she dies;
- 23.1.7 is absent without permission of the other directors from all their meetings held within a period of six months and the directors resolve that his/her office be vacated;
- 23.1.8 in the case of an ex officio director, he/she ceases to hold the position which entitles him/her to be an ex officio director;
- 23.1.9 in the case of a director appointed by the TWAM Strategic Board, he/she is removed by the TWAM Strategic Board, in which case, the TWAM Strategic Board shall appoint someone in his/her place; and
- 23.1.10 in the case of an Independent Director, he/she is removed by the directors on the basis that his/her conduct or behaviour is detrimental to the interests of the Company or he/she has acted contrary to any code of conduct from time to time in force and applicable to the directors.

and in all circumstances listed in 23.1.1 to 23.1.10 inclusive, the prior written consent of all the JV Partners is required as the removal of any director is a Category A Major Decision.

24. SECRETARY

- 24.1 The person holding the office of TWAM Finance Director for the time being shall be appointed by the directors as the secretary at such remuneration and upon such conditions as the directors may think fit.

25. DIRECTORS' REMUNERATION

- 25.1 Subject to Article 9 (Major Decisions) and Article 16 (Transactions or arrangements with the Company):
 - 25.1.1 directors may undertake any services for the Company that the directors decide;
 - 25.1.2 directors are entitled to such remuneration as the directors determine:
 - (a) for their services to the Company as directors, and
 - (b) for any other service which they undertake for the Company;
 - 25.1.3 a director's remuneration may:

- (a) take any form, and
 - (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director;
- 25.1.4 unless the directors decide otherwise, directors' remuneration accrues from day to day; and
- 25.1.5 unless the directors decide otherwise, directors are not accountable to the Company for any remuneration which they receive as directors or other officers or employees of the Company's subsidiaries or of any other body corporate in which the Company is interested, provided that nothing in this Article shall authorise the payment or remuneration of any director who is also a trustee of the TWAM Development Trust.

26. DIRECTORS' EXPENSES

- 26.1 The Company may pay any expenses that are reasonable and properly incurred by a director in connection with that director's attendance at:
- 26.1.1 meetings of directors or committees of directors,
 - 26.1.2 general meetings, or
 - 26.1.3 otherwise in connection with the exercise of that director's powers and the discharge of that director's responsibilities in relation to the Company.
- 26.2 A decision of the Company to pay any fees, remuneration or other benefits to a director which do not fall within the scope of Article 26.1 is a Category A Major Decision and therefore requires the prior written consent of all of the JV Partners in accordance with Article 9 (Major Decisions). Any such decision taken without the prior written consent of all of the JV Partners will not be valid or binding upon the Company.

PART 3

SHARES AND DISTRIBUTIONS

SHARES

27. POWERS TO ISSUE DIFFERENT CLASSES OF SHARE

- 27.1 Subject to the Articles and the Shareholders' Agreement, but without prejudice to Article 9 (Major Decisions) or the rights attached to any existing share, the Company may issue shares with such rights or restrictions as may be determined by ordinary resolution.
- 27.2 Subject to the Articles and the Shareholders' Agreement, and without prejudice to Article 9, the Company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the Company on such terms, conditions and manner of redemption as the JV Partners unanimously determine.

28. COMPANY NOT BOUND BY LESS THAN ABSOLUTE INTERESTS

28.1 Except as required by law, no person is to be recognised by the Company as holding any share upon any trust, and except as otherwise required by law or the Articles or the Shareholders' Agreement, the Company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

29. SHARE CERTIFICATES

29.1 The Company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.

29.2 Every certificate must specify:

29.2.1 in respect of how many shares, of what class, it is issued;

29.2.2 the nominal value of those shares;

29.2.3 that the shares are fully paid; and

29.2.4 any distinguishing numbers assigned to them.

29.3 No certificate may be issued in respect of shares of more than one class.

29.4 If more than one person holds a share, only one certificate may be issued in respect of it.

29.5 Certificates must be executed in accordance with the Act.

30. REPLACEMENT SHARE CERTIFICATES

30.1 If a certificate issued in respect of a shareholder's shares is:

30.1.1 damaged or defaced, or

30.1.2 said to be lost, stolen or destroyed, that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.

30.2 A shareholder exercising the right to be issued with such a replacement certificate:

30.2.1 may at the same time exercise the right to be issued with a single certificate or separate certificates;

30.2.2 must return the certificate which is to be replaced to the Company if it is damaged or defaced; and

30.2.3 must comply with such conditions as to evidence and indemnity as the directors decide.

31. ALLOTMENT OF SHARES

- 31.1 Notwithstanding any provision of these Articles to the contrary, the directors may not allot any shares in the Company in the two year period commencing from the date on which the Company is registered at Companies House.
- 31.2 An allotment, disposal, grant of an option over, transfer or otherwise of shares to any person (including any director) (**Disposal**) will only be valid if:
- 31.2.1 all of the JV Partners give their prior written consent to the Disposal in accordance with Article 9 (Major Decisions);
 - 31.2.2 such person enters into a deed of adherence to the Shareholders' Agreement in the form set out in Schedule 3 of the Shareholders' Agreement; and
 - 31.2.3 the Disposal is on such terms and conditions as are agreed in writing by all of the JV Partners and considered appropriate by all of the JV Partners at the relevant time, bearing in mind, in particular:
 - (a) a valuation of the business of the Company carried out by a qualified and independent accountant at the relevant time;
 - (b) financial contributions to the Company proposed by any prospective new shareholder at the relevant time (to take into account the business valuation sought pursuant to Article 31.2.3(a), the amount of any outstanding JV Partner loans plus any further contributions made); and
 - (c) the impact of admission of the prospective shareholder on the Company's Donations Policy in place at the relevant time.
- 31.3 The JV Partners, when deciding whether to each give their written consent to a Disposal pursuant to Article 31.2, must consider the benefits and drawbacks of admitting a new shareholder, and any alternatives to admitting a new shareholder (such as the provision of services through contract).
- 31.4 No shares shall be issued at a discount.
- 31.5 Sections 561 and 562 of the Act are hereby excluded and shall not apply to any allotment by the Company of equity securities (as defined in section 560 of the Act).

32. TRANSFERS OF SHARES – GENERAL

- 32.1 Any purported transfer of shares other than in accordance with the provisions of these Articles shall be void and have no effect.
- 32.2 The transfer of Shares is a Category A Major Decision. The directors shall not therefore register any transfer of shares without the prior written consent of all the JV Partners, notwithstanding any contrary provision in these Articles.
- 32.3 Subject to Articles 34.4.1 (Matters relating to share transfers) and 9 (Major Decisions), the directors shall refuse to register any transfer of shares (notwithstanding that all JV Partners have consented to

the transfer) unless the transfer is permitted by these Articles and made in accordance with Article 34 (Pre-emption procedure for transfers of shares), and Article 35 (Compulsory share transfers).

33. PROHIBITED TRANSFERS OF SHARES

- 33.1 The directors shall not be permitted to register, and the JV Partners shall not be permitted to approve, any allotment of shares (other than the subscriber shares set out in Schedule 1 of the Shareholders' Agreement), or transfer of shares held by a JV Partner (the **Transferor**), for a period of two years from the date of incorporation of the Company, other than in the following circumstances:
- 33.1.1 on the winding up, dissolution, insolvency or something similar of the Transferor;
 - 33.1.2 the Transferor commits a material and un-remedied breach of the Shareholders' Agreement;
 - 33.1.3 the Transferor commits a material breach which is capable of remedy but goes unremedied for a period of three months from the date of the breach;
 - 33.1.4 the actions of the Transferor (in the reasonable opinion of the JV Partners, excluding the Transferor) bring the Company and/or TWAM into disrepute; and/or
 - 33.1.5 the Transferor commits a breach of the Shareholders' Code of Conduct from time to time in force and the JV Partners (excluding the Transferor) resolve to remove that JV Partner.
- 33.2 The directors shall not be permitted to register any allotment or transfer of shares without the prior written consent of all of the JV Partners.
- 33.3 The directors may only be permitted to register, and the JV Partners only permitted to approve, the transfer of the whole legal and equitable title to shares free from all liens, charges and encumbrances and with all rights, title and interest in existence at the date of transfer together with all rights which may arise in respect thereof.

34. PRE-EMPTION PROCEDURE FOR TRANSFERS OF SHARES

34.1 Transfer Notices

- 34.1.1 Any shareholder who wishes to transfer shares or any interest in shares (**Seller**) shall provide the Company with a written notice of its wishes (a **Transfer Notice**).
- 34.1.2 Subject to the provisions below, a Transfer Notice given in these circumstances shall constitute the directors as the Seller's agents for the sale of the shares specified in the Transfer Notice (**Sale Shares**) at the Sale Price (defined below).
- 34.1.3 Notwithstanding any provision to the contrary, a Seller is not permitted to transfer, at any one time, only some of their shares or part of their interest in their shares; a Seller must transfer, on any one occasion, all of their shares and all their interest in those shares.
- 34.1.4 A Transfer Notice once given, required to be given or deemed to have been given shall not be revocable except with the consent of all of the JV Partners, who may impose such

condition to their consent as they think fit, including a condition that the Seller bears all costs arising therefrom.

34.2 **Determination of Sale Price**

- 34.2.1 Subject to Article 34.2.2, the expression **Sale Price** shall mean where the Company has only made distributions and/or donations to the TWAM Development Trust and has not made distributions to its shareholders, in respect of each Sale Share the nominal value of that Sale Share.
- 34.2.2 If a Seller, acting reasonably, is unable and unwilling to sell its Sale Shares at their nominal value in accordance with Article 34.2.1, the matter shall be referred immediately to a Referee at [the Company's / the Seller's] cost and,
- (a) the Referee shall act as an independent expert and not as an arbitrator;
 - (b) the decision of the Referee as to the fair selling value of the Sale Shares on the open market shall be final and conclusive and shall be binding upon the relevant parties; and
 - (c) the Referee shall be instructed to produce a certificate showing the new value of the Sale Shares.

34.3 **Offers to Purchase**

- 34.3.1 Upon the Sale Price being determined in accordance with Article 35.2 above, the Company, provided it is able and willing to do so, shall buy-back the Sale Shares.
- 34.3.2 If the Company is unable or unwilling to buy-back the Sale Shares, the remaining JV Partners (the **Transferees**) shall be obliged to promptly purchase the Sale Shares in equal proportions (so far as is possible) and at nominal value.
- 34.3.3 The Seller shall be bound to promptly transfer the Sale Shares to the Company or Transferees (as applicable) when payment of the relevant Sale Price for the Sale Shares is made to the directors as agents for the Seller, and share certificates in respect of the relevant Sale Shares shall be promptly delivered to the directors.
- 34.3.4 The Seller shall be deemed to transfer the Sale Shares with full title guarantee free from all encumbrances and shall deliver to the directors on behalf of the Company or Transferees (as applicable) duly executed stock transfer forms in respect of and certificates for the Sale Shares.
- 34.3.5 If the Seller fails to promptly transfer the Sale Shares, the Chair or some other person appointed by the directors (and approved by the JV Partners excluding the Seller) shall be deemed to have been authorised by the Seller to execute, complete and deliver, in the name and on behalf of the Seller, a transfer of the Sale Shares to the Company or the Transferees (as applicable) against payment of the Sale Price to the Company.
- 34.3.6 On payment of the relevant Sale Price, the Company or Transferees (as applicable) shall be deemed to have obtained a good discharge for such payment and on execution and delivery of the transfer (subject to the transfer being duly stamped and to Article 34.4.1),

where appropriate, the Transferees shall be entitled to insist upon their names being entered in the register of shareholders as the holders by transfer of the Sale Shares.

34.3.7 The Company shall hold the purchase money in trust for the Seller but shall not be bound to earn or pay interest on it and shall act on behalf of the Seller in settling any fees or expenses falling to be borne by him. After the names of the Transferees have been entered in the register of shareholders in purported exercise of the powers referred to above the validity of the proceedings shall not be questioned by any person.

34.4 **Matters relating to Share Transfers**

34.4.1 Notwithstanding the foregoing provisions of this Article 34, the directors may decline to register any transfer of any share on which the Company has a lien or in respect of any share which is not fully paid.

35. **COMPULSORY SHARE TRANSFERS**

35.1 For the purposes of this Article 35 the following shall be deemed (without limitation) to be service of a Transfer Notice under Article 34 (Pre-emption procedure for transfers of shares) by a shareholder in respect of all the shares in the Company held by it:

35.1.1 any disposal (or purposed disposal) of a share or any interest thereon by that shareholder (whether or not for consideration or otherwise) otherwise than in accordance with the provisions of these Articles;

35.1.2 a change of control of that shareholder (where **control** is as defined in section 1124 of the Corporation Tax Act 2010), in which case the shareholder shall be deemed immediately prior to that change of control to have served a Transfer Notice under Article 34 (Pre-emption procedure for transfers of shares) in respect of all the shares held by it;

35.1.3 the appointment of an administrative receiver, receiver, manager or liquidator in respect of it or its assets or the entry by it into or a proposal by its directors of an arrangement with its creditors or the taking of any step by any person to appoint an administrator of that shareholder;

35.1.4 that shareholder commits a material and un-remedied breach of the Shareholders' Agreement;

35.1.5 the actions of that shareholder (in the reasonable opinion of the JV Partners, excluding that shareholder) bring the Company and/or TWAM into disrepute;

35.1.6 that shareholder breaches the Shareholders' Code of Conduct and; and/or

35.1.7 the Company is wound up.

35.2 In the event that Article 35.1.6 is triggered, the expulsion of the relevant shareholder may only take effect after the Company has followed the relevant procedures set out in the Shareholders' Code of Conduct.

35.3 A Transfer Notice deemed to have been given under Article 35.1 shall not be revocable and if a shareholder gives a Transfer Notice in circumstances where a Transfer Notice would otherwise be

deemed to have been given by him under this Article 35, then this Article 35 shall apply. For the avoidance of doubt, all of the relevant shareholder's rights shall cease from the point at which the Transfer Notice is deemed given.

36. EFFECTING SHARE TRANSFERS

36.1 Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor. No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share, and the Company may retain any instrument of transfer which is registered.

36.2 The Transferor remains the holder of a share until the name of the relevant transferee (whether that be the Company or a Transferee) is entered in the register of members as holder of it.

37. DISTRIBUTION OF PROFITS

37.1 The profits of the Company, after deduction of normal working capital costs, shall be paid in accordance with the terms of the Shareholders' Agreement.

PART 4

DECISION-MAKING BY SHAREHOLDERS

ORGANISATION OF GENERAL MEETINGS

38. GENERAL MEETINGS

38.1 The JV Partners must meet annually, on such date and time as set by the directors, for the purpose of agreeing the Company's Business Plan.

38.2 Other general meetings may be held at any time, as and when required.

38.3 All general meetings must be held at the Company's registered office unless otherwise agreed in writing by the JV Partners.

39. ATTENDANCE AND SPEAKING AT GENERAL MEETINGS

39.1 Directors may attend and speak at general meetings, whether or not they are shareholders.

39.2 The chairman of the meeting may permit other persons who are not:

39.2.1 shareholders of the Company, or

39.2.2 otherwise entitled to exercise the rights of shareholders in relation to general meetings, to attend and speak at a general meeting.

39.3 The JV Partners shall each appoint a nominated representative to represent them at general meetings.

- 39.4 The nominated representative appointed in accordance with Article 39.1 shall only act on the instruction of their JV Partner and represent the views of their JV Partner.
- 39.5 The JV Partners recognise and acknowledge the interests of the Company and shall put forward its views and make decisions with those interests in mind.
- 39.6 The JV Partners acknowledge that delay in decision making will have an adverse impact on the Company's business and therefore agree to us all reasonable endeavours to make decisions promptly.

40. QUORUM FOR GENERAL MEETINGS

- 40.1 No business is to be transacted at a general meeting if the persons attending it do not constitute a quorum.
- 40.2 The quorum for general meetings shall be three unless a Category A Major Decision is required, in which case, all JV Partners must be present through a nominated representative.

41. CHAIRING OF GENERAL MEETINGS

- 41.1 The Chair shall chair the general meetings.
- 41.2 The person chairing a general meeting in accordance with this Article 41 is referred to as "the chairman of the meeting," but such person has no right to vote unless he is the authorised representative of a JV Partner.

42. ADJOURNMENT

- 42.1 If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it.
- 42.2 The chairman of the meeting may adjourn a general meeting at which a quorum is present if:
- 42.2.1 the meeting consents to an adjournment, or
 - 42.2.2 it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- 42.3 The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.
- 42.4 When adjourning a general meeting, the chairman of the meeting must:
- 42.4.1 either specify the time to which it is adjourned or state that it is to continue at a time to be fixed by the directors, and
 - 42.4.2 have regard to any directions as to the time of any adjournment which have been given by the meeting.

- 42.5 If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the Company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given):
- 42.5.1 to the same persons to whom notice of the Company's general meetings is required to be given, and
 - 42.5.2 containing the same information which such notice is required to contain.
- 42.6 No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

VOTING AT GENERAL MEETINGS

43. VOTING AT GENERAL MEETINGS

- 43.1 A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with these Articles. Any decision other than a Category A Major Decision, shall be taken by a simple majority of votes cast at the meeting. Every JV Partner shall have one vote in relation to Major Decisions, and every shareholder shall have one vote in relation to all other decisions.

44. ERRORS AND DISPUTES

- 44.1 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- 44.2 Any such objection must be referred to the chairman of the meeting, whose decision is final.

45. POLL VOTES

- 45.1 A poll on a resolution may be demanded:
- 45.1.1 in advance of the general meeting where it is to be put to the vote, or
 - 45.1.2 at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- 45.2 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.
- 45.3 A demand for a poll may be withdrawn if:
- 45.3.1 the poll has not yet been taken; and
 - 45.3.2 the chairmen of the meeting consents to the withdrawal.

A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made.

45.4 Polls must be taken immediately and in such manner as the chairman of the meeting directs.

46. CONTENT OF PROXY NOTICES

46.1 Proxies may only validly be appointed by a notice in writing in accordance with the Act.

47. AMENDMENTS TO RESOLUTIONS

47.1 An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if:

47.1.1 notice of the proposed amendment is given to the shareholders in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine), and

47.1.2 the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.

47.2 A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if:

47.2.1 the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and

47.2.2 the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.

47.3 If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.

48. DEADLOCK AND DISPUTE RESOLUTION

48.1 If a decision cannot be reached by the JV Partners on a matter, the relevant process set out in the Shareholders' Agreement must be followed.

48.2 If a dispute arises in relation to the terms of these Articles, the process for resolving such disputes as set out in the Shareholders' Agreement must be followed.

PART 5

ADMINISTRATIVE ARRANGEMENTS

49. MEANS OF COMMUNICATION TO BE USED

49.1 Anything sent or supplied by or to the Company under these Articles may be sent or supplied in any way in which the Act provides for documents or information which are authorised or required by any provision of the Act to be sent or supplied by or to the Company.

49.2 Any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

49.3 A director may agree with the Company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

50. RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS

50.1 Except as provided by law or authorised by the directors or an ordinary resolution of the Company, no person, other than a JV Partner, shall be entitled to inspect any of the Company's accounting or other records or documents.

51. INDEMNITY

51.1 Subject to the provisions of and so far as may be consistent with the Act, the Company shall provide:

51.1.1 for each relevant officer an indemnity out of the assets of the Company to the extent that such indemnity is a **qualifying third party indemnity provision** within the meaning of section 234 of the Act;

51.1.2 a relevant officer with funds in accordance with section 205 of the Act to meet expenditure incurred or to be incurred by him in defending any criminal or civil proceedings or in connection with any application under the provisions mentioned in section 205(5) of the Act or to enable a relevant officer to avoid incurring such expenditure, but so that any provision of funds will become repayable by the relevant officer or any liability of the Company under any transaction connected with any provision of funds will become repayable by the relevant officer not later than:

(a) in the event of the relevant officer being convicted in the proceedings, the date when the conviction becomes final;

(b) in the event of judgment being given against him/her in the proceedings, the date when the judgment becomes final; or

(c) in the event of the court refusing to grant him/her relief on the application, the date when the refusal of relief becomes final; and

51.1.3 a relevant officer with funds to meet expenditure incurred or to be incurred by him/her in defending himself/herself in an investigation by a regulatory authority or against action proposed to be taken by a regulatory authority in connection with any alleged negligence, breach of duty or breach of trust by that relevant officer in relation to the Company or an associated company of the Company or to enable a relevant officer to avoid incurring such expenditure.

51.2 In this Article 51 and in Article 52:

51.2.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and

51.2.2 a **relevant officer** means any director or other officer or former director or other officer of the Company or an associated company, but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he/she is also a director or other officer), to the extent he acts in his/her capacity as auditor).

52. INSURANCE

- 52.1 The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.
- 52.2 In this Article 52, a **relevant loss** means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the Company or any associated company.

2017

Shareholders' Agreement
relating to
TWAM Enterprises Ltd

DATE

PARTIES

- (1) Gateshead Council.
- (2) Newcastle City Council.
- (3) North Tyneside Council.
- (4) South Tyneside Council.
- (5) The University of Newcastle.
- (6) [TWAM Enterprises Ltd.]

each a **party** and together the **parties**.

AGREED TERMS

1. INTERPRETATION

1.1 The definitions and rules of interpretation in Clause 1 apply:

Articles	the articles of association of the Company in agreed form at the date of completion of this Agreement and as amended from time to time.
Board	the board of directors for the time being of the Company.
Business	the business of the Company as described in Clause 2.1 and such other business as the JV Partners may agree from time to time in writing should be carried on by the Company.
Business Plan	the Initial Business Plan and any detailed operating plan and financial budget of the Company for subsequent financial periods approved in accordance with Clause 6.5.
Category A Major Decision	a decision on an issue listed in Part 1 of Schedule 3, which requires the prior consent of all of the JV Partners.
Category B Major Decision	a decision on an issue listed in Part 2 of Schedule 3, which requires the prior consent of a majority of the JV Partners.
Company	TWAM Enterprises Ltd (CN [●]).
Connected Party	in relation to any Shareholder, (a) any person connected with that Shareholder where connected has the same meaning in section 252 of the Companies Act 2006 and as if references to director in that section were references to a Shareholder ; or (b) any employee or representative of that Shareholder.
Deadlock	has the meaning given in Clause 5.2.
Deed of Adherence	a deed of adherence in the form set out in Schedule 2.

Director	any director for the time being of the Company.
Donations Policy	the policy adopted by the Company which sets out how profits of the Company, after deduction of normal working capital costs, shall be distributed and/or donated.
Initial Business Plan	the business plan in a form agreed by all of the JV Partners for the financial period from [●] to [●] set out in Schedule 4.
JV Partners	means Gateshead Council, Newcastle City Council, North Tyneside Council, South Tyneside Council and the University of Newcastle (each a JV partner) and a founding Shareholder.
Major Decisions	the Category A Major Decisions and Category B Major Decisions set out in Schedule 3.
Shareholders	the shareholders from time to time in the Company and Shareholder means any of them.
Shares	the ordinary shares of £1 each in the capital of the Company.
TWAM	Tyne and Wear Archives and Museums.
TWAM Development Trust	the Tyne and Wear Archives and Museums Development Trust (company number 07334262 and charity number 1137867).

1.2 In this Agreement:

- 1.2.1 the singular includes the plural and vice versa;
- 1.2.2 references to persons include bodies corporate, unincorporated associations, governments, states, partnerships and trusts (in each case, whether or not having separate legal personality);
- 1.2.3 references to Clauses and Schedules are to Clauses of and Schedules to this Agreement;
- 1.2.4 the Schedules form part of this Agreement and the expression **this Agreement** includes the Schedules;
- 1.2.5 the headings in this Agreement are for convenience only and shall not affect interpretation;
- 1.2.6 any reference to a statutory provision includes a reference to any modification, replacement, consolidation or re-enactment of the provision from time to time in force and all subordinate instruments, orders or regulations made under it;
- 1.2.7 a reference to any of the parties includes, where appropriate, persons deriving title under it;
- 1.2.8 general words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things;
- 1.2.9 references to a person acting **directly** or **indirectly** include acting alone or jointly with or by means of any other person; and
- 1.2.10 references to any document (including this Agreement) or a provision thereof shall be construed as a reference to that document or provision as from time to time supplemented, varied or replaced.

2. OBJECTS OF THE COMPANY

2.1 The Business

The business of the Company will be to operate as a general commercial company (without limitation) for the purpose of making profits for distribution for the benefit of the development of the Museums and Archives Services across TWAM's operations.

2.2 Location

The central management and control of the Company shall be exercised in the United Kingdom and each of the Shareholders shall use its best endeavours to ensure that the Company is treated by all relevant authorities as being resident for taxation and other purposes in the United Kingdom.

3. COMPLETION

3.1 Details of the Company on completion

3.1.1 On completion, each of the JV Partners shall take or cause to be taken the following steps at Board and Shareholders' meetings of the Company or by circulation of written resolutions of the Company (as appropriate) so that the details of the Company as set out in Schedule 1 become correct:

- (a) the issue of shares in the Company to be divided into 100 shares of £1 each and the authority of the Directors to allot such shares;
- (b) each JV Partner, as a founding Shareholder, to subscribe to 20 shares of £1 each;
- (c) the adoption by the Company of the Articles;
- (d) the adoption of the Donations Policy;
- (e) the adoption of the Company's agreement with TWAM Development Trust pursuant to Clause 6.3.46.3.4(e);
- (f) the registration of the Company at Companies House;
- (g) the appointment of [●],[●],[●] as Directors;
- (h) the appointment of [●] as chair;
- (i) the appointment of [●] as secretary of the Company;
- (j) the adoption of [●] as the registered office of the Company;
- (k) the appointment of [●] PLC of [●] as bankers to the Company;
- (l) the appointment of [●] of [●] as auditors of the Company at a fee to be agreed by all of the JV Partners; and
- (m) the adoption of [●] in each year as the accounting reference date of the Company.

3.2 Agreement to remain in force

The provisions of this Agreement, to the extent not performed at completion, will remain in full force and effect despite completion.

4. THE BOARD

4.1 Composition of the Board

4.1.1 The maximum number of Directors holding office at any time shall be as set out in the Articles.

4.1.2 The Directors shall be appointed and removed in accordance with the terms of the Articles.

4.2 Chair

4.2.1 The first chair shall be appointed by the JV Partners in accordance with the Articles and shall act as [non-executive chair] from completion of this Agreement without payment of any fee.

4.2.2 If the chair is unable to attend a Board meeting or a meeting of the members of the Company, the JV Partners, acting unanimously, shall be entitled to nominate another Director to act as chair in his place at the meeting.

4.3 Quorum

4.3.1 The quorum for Board meetings shall be as set out in the Articles.

4.4 Board meetings

4.4.1 Save for Major Decisions, all decisions of the Directors shall be decided by a simple majority of votes cast on the basis that each Director shall have one vote. The chair of the meeting shall have a second or casting vote in the case of an equality of votes.

4.4.2 Major Decisions will require the prior written consent of the JV Partners:

(a) Category A Major Decisions will require the prior written consent of all JV Partners.

(b) Category B Major Decisions will require the prior written consent of a majority of JV Partners.

4.4.3 Board meetings shall be properly convened in accordance with the Articles and held at the Company's registered office from time to time or such other place as the Directors determine, provided all Directors are able to participate.

4.5 Removal of the Directors and chair

4.5.1 A Director may be removed in accordance with the Articles.

4.5.2 The chair of the Board meetings shall also be chair of the Shareholders' meetings and may only be removed by agreement of all of the JV Partners or by tendering his / her resignation as chair to the Company.

5. CONDUCT OF THE COMPANY'S AFFAIRS

5.1 Exercise of voting rights

5.1.1 Each Shareholder shall exercise all voting rights and other powers in relation to the Company so as to procure (so far as they are able) that:

(a) the business of the Company consists exclusively of the Business;

- (b) the Business is conducted in the best interests of the Company on sound commercial profit making principles in a way likely to promote the success of the TWAM Operation and the success of the Company for the benefit of its members as a whole and for the future maintenance and development of TWAM; and
- (c) the Company complies with the provisions of the Articles.

5.1.2 Each Shareholder undertakes with the others to exercise all voting rights and powers of control available to it in relation to the Company so as to give full effect to the terms and conditions of this Agreement.

5.2 **Deadlock**

5.2.1 If a decision cannot be reached by the JV Partners on a matter at a general meeting or in relation to a Major Decision, a further meeting shall be called within 14 days of the matter having been considered by the JV Partners to re-consider the matter.

5.2.2 If the JV Partners still cannot reach agreement, then the matter shall be escalated as follows:

- (a) The Directors shall notify the CEOs of the JV Partners that deadlock has arisen and set out the relevant circumstances, with copies to the JV Partners nominated representatives.
- (b) The CEO of each JV Partner shall promptly discuss the matter with their nominated representative and promptly confirm in writing their position to the Directors, with copies to the CEOs of each JV Partner and to the JV Partners.
- (c) The CEO of each JV Partner shall promptly meet to discuss the issue and, where possible, reach agreement, recognising that the Business may be hampered during this time and therefore swift resolution is required.
- (d) Where agreement of the CEOs is reached at this stage, a meeting of the JV Partners shall be re-convened and a decision made on the relevant issue.
- (e) Where agreement is still not reached, the Company shall promptly appoint an agreed person to act as mediator in order to facilitate resolution on the issue.
- (f) Where agreement is still not reached with the support of a mediator, then the JV Partners shall promptly refer the matter to an independent arbitrator whose decision will be final and binding on the JV Partners and the Company.

5.3 **Anti-corruption undertakings**

5.3.1 **Definitions**

In this Clause, the following definitions will apply:

Adequate Procedures adequate procedures, as referred to in section 7(2) of the Bribery Act 2010 and any guidance issued by the Secretary of State under section 9 of the Bribery Act 2010.

Associated Person in relation to a company, a person (including an employee, agent or subsidiary) who performs services for or on that company's behalf.

5.3.2 **Anti-corruption**

- (a) Each party undertakes to the other parties that:

- (i) it will not, and will procure that the Company will not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010;
- (ii) it has and will maintain in place, and will procure that the Company has and will maintain in place Adequate Procedures designed to prevent any Associated Person from undertaking any conduct that would give rise to an offence under section 7 of the Bribery Act 2010; and
- (iii) from time to time, at the reasonable request of any other party, it will confirm in writing that it has complied with its undertakings under Clause 5.3.2(a)(i) and Clause 5.3.2(a)(ii) and will provide any information reasonably requested by such other party in support of such compliance.

6. BUSINESS PLANNING AND FINANCIAL MATTERS

6.1 Initial funding

6.1.1 The Company shall be initially funded through allocation from TWAM's existing budget.

6.2 No obligation for further funding

6.2.1 No JV Partner shall be required to subscribe for any further Shares or to provide any additional funding for the Company in excess of the funding already allocated to TWAM's existing budget or provide any guarantees or security for the obligations of the Company whether as a result of the Company securing additional funding or otherwise.

6.2.2 In the event that the Company losses or shortfalls arise:

- (a) the Directors shall call a meeting of the JV Partners for the purpose of considering financing options for the Company;
- (b) any further funding for the Company (whether by equity or debt or external finance) shall be unanimously approved in writing by all of the JV Partners in advance of securing such finance as a Category A Major Decision; and
- (c) the level and terms of any further funding shall be unanimously agreed in writing by all of the JV Partners in writing by them at the relevant time.

6.3 Donations Policy

6.3.1 Subject to the other provisions of this Clause 6, the parties agree that the profits of the Company, after deduction of normal working capital costs, shall be paid to the TWAM Development Trust by way of a charitable donation. To the extent possible, the parties agree that the Company shall make such donation within the financial year that such profits are generated in order for the Company to benefit from corporation tax relief under the gift aid regime.

6.3.2 The level of donation to the TWAM Development Trust shall be proposed by the Directors to the JV Partners but the Directors shall have discretion, within the terms of the Donations Policy, to determine the timing and amount of such donation, taking into account the financial requirements of the Company.

6.3.3 The Company shall adopt the Donations Policy as soon as possible following its establishment and the Donations Policy shall be approved in writing by the JV Partners as a Category A Major Decision. Any variation to or replacement of the Donations Policy may only take effect with the prior written consent of all of the JV Partners as a Category A Major Decision.

- 6.3.4 The parties agree that the Donations Policy shall as a minimum incorporate the following principles:
- (a) no financial distribution shall be made by the Company to its Shareholders on the basis that the Company's intention is that profits of the Company will be paid to the TWAM Development Trust by way of a donation in the relevant financial year;
 - (b) donations shall only be paid from the Company's available profits or distributable reserves;
 - (c) the Company's objective is to minimise its tax liability (to the extent legally possible) by paying donations to TWAM Development Trust during the relevant financial year and the Directors shall have regard to this objective in making its decisions regarding donations under Clause 6.3.2;
 - (d) the Directors shall determine in accordance with the Business Plan for the relevant period how much profit the Company shall retain by way of working capital for the following financial year;
 - (e) the Company shall enter into an agreement with TWAM Development Trust and that agreement shall provide that donations from the Company be held by TWAM Development Trust as restricted funds for specified purposes, and in return for such donation, the Company shall seek to oblige TWAM Development Trust to re-invest such donations in the development of the TWAM charitable services/activities; and
 - (f) the re-investment in the TWAM charitable services/activities shall be allocated on a proportionate basis across the TWAM services/premises based on the Company's trading income generated from and/or by such services/locations.

6.4 **Financial information and accounts**

- 6.4.1 The Company shall supply the JV Partners with the following information:
- (a) the audited accounts of the Company for each financial year as soon as practicable and, at the latest, by four months after the end of that financial year;
 - (b) quarterly cashflow statements and cashflow forecasts for the Company as soon as practicable and at the latest by three weeks after the end of each quarter; and
 - (c) such reasonable other financial or management information relating to the Company as any JV Partner may reasonably request from time to time.
- 6.4.2 The JV Partners shall each be entitled to examine the separate books and accounts to be kept by the Company and to be supplied with all relative information, including the Business Plan, monthly management accounts and operating statistics and such other trading and financial information in such form as they may reasonably require.

6.5 **Business plan and budgeting**

- 6.5.1 The Initial Business Plan shall be in a form agreed by all of the JV Partners as a Category A Major Decision.
- 6.5.2 The Directors shall procure that the Company shall prepare at least [three] months prior to the commencement of each financial year of the Company a detailed Business Plan of the Company for the following [three] financial years. Such Business Plan shall be approved in writing by all of the JV Partners. The Business Plan shall include the following matters:
- (a) a budget profit and loss account for the following financial year;

- (b) an operating budget for the following financial year (including capital expenditure projections);
- (c) a cash flow statement including a working capital forecast for the following financial year;
- (d) details of the Company's funding requirements including projections for the repayment of such funding; and
- (e) projected payments to the TWAM Development Trust.

6.5.3 The Business Plan shall be reviewed by the Directors [bi-annually] or on the occurrence of an event substantially affecting the future of the Business and any changes proposed by the Directors will not be effective without the prior approval of all of the JV Partners.

7. MATTERS REQUIRING WRITTEN CONSENT

7.1 Directors to manage the Business

Except for the matters listed in Clause 7.2, the Shareholders agree that all decisions relating to the Company shall be made by the Directors in accordance with Clause 4.

7.2 Matters reserved for the JV Partners

7.2.1 The JV Partners shall exercise all voting rights and other powers available to them in relation to the Company so as to procure (so far as they are able) that no matter listed in Schedule 3 is carried out without the written consent of all the JV Partners in the case of Category A Major Decisions, or the written consent of a majority of the JV Partners in the case of Category B Major Decisions.

7.2.2 Notwithstanding the provisions of 7.2.1, for the purpose of this Clause 7 there can be unanimity or a majority (as applicable) if a JV Partner the subject of Clause 11 does not vote or consent so that for the purposes of this Clause 7 there can be unanimity or a majority as required (and as applicable) if the JV Partner the subject of Clause 11 does not vote or consent to the matter.

7.3 Amendments or variations to this Agreement

A decision to amend or vary this Agreement is a Category A Major Decision and will therefore require the approval of all JV Partners to be valid and effective.

8. SERVICES TO BE PROVIDED BY SHAREHOLDERS

8.1 Subject to Clause 8.2, each Shareholder shall procure that any contracts between it and the Company or between its Connected Parties and the Company shall be made on an arm's length basis and on terms that are not unfairly prejudicial to the interests of any Shareholder.

8.2 Notwithstanding Clause 8.1, the JV Partners may unanimously agree in writing that the Company may enter into a contract with a Shareholder or Connected Person on favourable terms, but only if the JV Partner concerned (if any) does not take part in the discussion and shall not vote on the matter

8.3 Nothing in this Clause 8 shall prevent the Company from entering into an agreement with the JV Partners for the JV Partners to transfer certain assets to the Company on its establishment and to thereafter provide services to the Company for the purpose of operating the Business

9. DEALING IN SHARES

Unless otherwise set out in this Agreement, the issue and the transfer of Shares, together with any restrictions on dealing in Shares, the admission of new Shareholders, and exiting of Shareholders, are regulated in accordance with the Articles.

10. ALLOTMENT OF SHARES

10.1 The Directors may not allot any shares in the Company in the two year period commencing from the date on which the Company is incorporated at Companies House.

10.2 An allotment, disposal, grant of an option over, transfer or otherwise of shares to any person (including any director) (**Disposal**) will only be valid and effective if:

10.2.1 all of the JV Partners give their prior consent to the Disposal in accordance with Clause 7.2 (Major Decisions);

10.2.2 such person enters into a deed of adherence in the form set out in Schedule 2 to the Shareholders' Agreement; and

10.2.3 the Disposal is on such terms and conditions as are agreed in writing by all of the JV Partners and considered appropriate by all of the JV Partners at the relevant time, bearing in mind, in particular:

(a) a valuation of the Business carried out by a qualified and independent accountant at the relevant time;

(b) financial contributions to the Company proposed by any prospective new Shareholder at the relevant time (to take into account the Business valuation sought pursuant to 10.2.3(a), the amount of any outstanding JV Partner loans plus any further contributions made); and

(c) the impact of admission of the prospective Shareholder on the Donations Policy in place at the relevant time.

10.3 The JV Partners, when deciding whether to each give their written consent pursuant to Clause 7.2 (Major Decisions), must consider the benefits and drawbacks of admitting a new Shareholder, and any alternatives to admitting a new Shareholder (such as the provision of services through contract).

10.4 No Shares shall be issued at a discount.

10.5 Sections 561 and 562 of the Companies Act 2006 are hereby excluded and shall not apply to any allotment by the Company of equity securities (as defined in section 560 of that Act).

11. NON-INTERFERENCE/STEP-ASIDE

11.1 Claims By the Company

If the Company is entitled to bring a claim or enforce any rights it may have against any Shareholder or any Connected Party of a Shareholder then:

11.1.1 that Shareholder agrees to refrain from using voting rights and other powers in relation to the Company to prevent or delay the bringing of the claim or enforcement of the rights by the Company and in particular its consent shall not be required to any such action by the Company;

11.1.2 the parties agree that the Company shall be entitled to and shall enforce its rights under such contract; and

- 11.1.3 that Shareholder shall have no right to see or take copies of documents belonging to the Company in relation to such claim or right of enforcement which in litigation (whether or not commenced) would be privileged.

11.2 No Participation by an Interested Shareholder

- 11.2.1 Subject to 11.2.2, notwithstanding any provision in the Articles, in relation to the entry into of any contract with a Connected Party of a Shareholder requiring JV Partner written consent under Clause 7, the relevant JV Partner (if any) shall not participate in or vote at any part of a meeting of the JV Partners or on a resolution of the JV Partners where the matter requiring approval is being considered or voted on or agreed to (or have any entitlement to papers in relation to such matter). In that event, the other JV Partners shall constitute a quorum at any meeting of the JV Partners convened for the purpose of considering such contract and/or constitute any necessary percentage for agreeing to a resolution for approving such contract. In the case of a Major Decision, Category A, the resolution shall be passed if it is agreed in writing by all of the other JV Partners.
- 11.2.2 The provisions of 11.2.1 shall not apply in relation to any contract between the Company and the JV Partners which applies in common to all JV Partners, to the agreements specifically mentioned in Clause 8.3 or in relation to which the JV Partners unanimously agree the JV Partner(s) (or Connected Person(s)) with whom the contract is entered into may count in the quorum, participate in or vote at the relevant meeting or part thereof at which the matter is discussed.

11.3 Claims by a JV Partner

Each of the JV Partners agrees that, if it appears that the Company is in breach of an obligation which it owes to a JV Partner or a Connected Party of a JV Partner under any agreement, that JV Partner shall have no right to see or take copies of documents belonging to the Company in relation to such breach which in litigation (whether commenced or not) would be privileged.

12. DEADLOCK

12.1 When Deadlock occurs

This Clause 12 applies where there is a **Deadlock** because a matter relating to the affairs of the Company requires either unanimous or majority consent of the JV Partners under Clause 7 of this Agreement (or otherwise at law) and no such consent has been obtained and the matter is not resolved at the relevant meeting of the JV Partners. The parties undertake in these circumstances that they shall use all reasonable endeavours in good faith to resolve the matter giving rise to the Deadlock until the required agreement has been reached.

12.2 Procedure

- 12.2.1 Where a Deadlock arises and is not resolved at the relevant meeting of the JV Partners in accordance with Clause 12.1, the chair shall promptly call a further meeting of the JV Partners (the **Second Meeting**) to take place within 14 days of the meeting at which the Deadlock arises.
- 12.2.2 If the JV Partners are unable to reach an agreement at the Second Meeting the Directors shall notify the Chief Executive Officer (**CEO**) of each JV Partner, in writing, that a Deadlock has arisen and the relevant circumstances and background context to the Deadlock, with copies to each JV Partner's authorised representative.
- 12.2.3 The CEO of each JV Partner shall promptly, following receipt of notification pursuant to Clause 12.2.2, discuss the Deadlock with their JV Partner's authorised representative and promptly confirm in writing their position to the Directors, with copies to the other JV Partners. The Directors shall within [insert period] of receipt of the confirmations

from each CEO or [insert period], whichever is the sooner, arrange a meeting between the CEOs of each JV Partner to discuss the Deadlock.

- 12.2.4 The CEO of each JV Partner shall use all reasonable endeavours to attend the meeting arranged by the Directors pursuant to Clause 12.2.3 and, where possible, shall reach agreement on the Deadlock, recognising that the Business may be hampered during this time and therefore swift resolution is required by the CEOs.
- 12.2.5 Where agreement of the CEOs is reached at the meeting at Clause 12.2.4, the relevant meeting of the JV Partners shall be re-convened and a decision to resolve the Deadlock shall be made in accordance with the agreement of the CEOs.
- 12.2.6 Where agreement is not reached at Clause 12.2.4, the JV Partners shall appoint an agreed person to act as mediator in order to facilitate resolution on the Deadlock and , in the event the JV Partners do not reach agreement on the person to act as mediator, the Directors may make this appointment.
- 12.2.7 Where agreement cannot be reached within a reasonable time after following the steps set out above in this Clause 12.2, then the JV Partners shall promptly refer the Deadlock matter to an independent arbitrator whose decision will be final and binding on the JV Partners and Company.

12.3 Other relief

This Clause 12 is without prejudice to the rights of any party to seek any injunctive or similar relief from the courts to protect its intellectual property rights, its Confidential Information, restrictions on the activities of any Shareholder or other rights of any description.

13. DISPUTE RESOLUTION

- 13.1.1 Subject to the other provisions of this Clause, the parties agree and acknowledge that:
- (a) They will use all reasonable endeavours to resolve any disputes under this Agreement informally.
 - (b) Disputes in relation to interpretation of the Articles or the Shareholders' Agreement shall be promptly referred by the Directors to an external firm of solicitors, whose decision shall be final.
 - (c) Disputes in relation to decision making by the JV Partners shall be as set out in Clause 12.
 - (d) Any other disputes shall be dealt with in accordance with the following:
 - (i) the aggrieved Shareholder shall promptly give written notice to the Directors setting out the nature of the dispute;
 - (ii) the Directors shall promptly notify the other Shareholders in writing that the dispute has arisen;
 - (iii) the Directors shall promptly call a meeting of the Shareholders to discuss the matter and, where possible, reach agreement for resolution;
 - (iv) where agreement cannot be reached, the process in Clause 13.1.2 shall promptly be followed.
- 13.1.2 The CEO of each Shareholder shall meet to discuss the dispute and, where possible, reach agreement, recognising that the Business may be hampered during this time and therefore swift resolution is required. Where resolution of the CEOs is reached at this stage, they shall promptly notify the directors of the position in writing. Where

agreement is still not reached, the matter shall be promptly referred by the Directors to mediation and, failing resolution, thereafter referred to binding arbitration.

14. WINDING UP

- 14.1 This Agreement shall terminate and the Company shall be wound up if all the JV Partners unanimously agree to the same as a Category A Major Decision.
- 14.2 The parties agree and acknowledge that the Company shall not be wound up for a period of two years commencing on the date that the Company is incorporated at Companies House.

15. EFFECT OF TERMINATION

- 15.1 The provisions of this Agreement which, by their nature should remain in effect after termination of this Agreement, shall remain in full force and effect following such termination.
- 15.2 Termination of this Agreement shall not affect any rights or liabilities that the parties have accrued under it.
- 15.3 Where the Company is to be wound up and its assets distributed, the JV Partners shall unanimously agree in writing a suitable basis for dealing with the interests and assets of the Company and shall ensure that:
 - 15.3.1 all existing contracts of the Company are performed to the extent that there are sufficient resources;
 - 15.3.2 the Company shall not enter into any new contractual obligations;
 - 15.3.3 the Company is dissolved and its assets are distributed as soon as practical;
 - 15.3.4 any assets transferred to the Company from the JV Partners shall be returned as the JV Partners' (acting unanimously) direct; and
 - 15.3.5 any other proprietary information or intellectual property rights belonging to or originating from a party shall be returned to it by the other party or by the Company and all such proprietary information and intellectual property rights shall be erased from the computer systems (to the extent possible) of the Company and the person who is returning it.
- 15.4 Where any party is required by law, regulation or governmental or regulatory authority to retain any proprietary information (or copies) of any other party or of the Company, it shall notify the other parties in writing of such retention giving details of the information that it has been required to retain.

16. COSTS

- 16.1 The parties agree and acknowledge that the costs, legal fees and other expenses incurred in the preparation, negotiation, execution and implementation of this Agreement and any document referred to in it shall be payable from the TWAM annual budget.

17. CONFIDENTIAL INFORMATION

17.1 Confidentiality Obligation

- 17.1.1 The Shareholders shall keep confidential and keep separate from all other information (and shall procure that their employees and agents keep confidential and separate) all financial and other information concerning the Business, the Company and the other Shareholders unless that information is already accessible from public sources or becomes publicly available to third parties other than as a result of disclosure(s) in

breach of this Agreement. A Shareholder will not use or disclose this information except with the consent of the JV Partners [and the Company].

- 17.1.2 The obligations in this Clause 17.1 will continue without limit in time and shall remain binding on the Shareholders even after a Shareholder has disposed of all or any of its Shares. However, they will cease to apply to information which comes into the public domain other than by reason of breach of this Clause 17.
- 17.1.3 Nothing in this Clause 17 will prevent a Shareholder from disclosing information to the extent required in or in connection with:
- (a) legal proceedings before a court of competent jurisdiction or under any court order; or
 - (b) the requirements of any applicable law or regulation or as requested by any governmental, taxation or regulatory body or agency entitled to disclosure of the same.
- 17.1.4 The Shareholders agree that the information referred to in Clause 17.1.1 is valuable and that damages might not be an adequate remedy for breach of this Clause 17.1 and accordingly the remedies of injunction and other equitable relief will be available for any actual or threatened breach of this Clause 17.1 without proof of special damage.

17.2 Return of Confidential Information

A Shareholder who ceases to be a Shareholder shall promptly hand over to the Company all confidential information, documents and materials belonging to the Company (unless that the Shareholder is required by law to retain the same) and shall, if so required by the Company, certify that it has not kept any records or copies of that information.

18. WAIVER

- 18.1 No failure to exercise or any delay in exercising any right or remedy under this Agreement shall operate as a waiver of it or of any other right or remedy under it. No single or partial exercise of any such right or remedy shall prevent any further or other exercise of it or the exercise of any other right or remedy.
- 18.2 Any waiver given must be in writing and expressly stated by to be a waiver. Such a waiver will only apply to the specific events to which it is stated to relate and not to any other events, whether past or future.
- 18.3 The rights and remedies provided by this Agreement are cumulative and (unless otherwise provided in this Agreement) are not exclusive of any rights or remedies provided by law or in this Agreement.

19. SEVERANCE

- 19.1 If any provision of this Agreement shall be found by any court or body or authority of competent jurisdiction to be invalid or unenforceable, such provision shall be severed from the remainder of this Agreement which shall remain in full force and effect to the extent permitted by law.
- 19.2 If any provision of this Agreement is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted or modified, the provision in question shall apply with such modification as may be necessary to make it valid.
- 19.3 In the circumstances referred to in Clause 19.1 and providing Clause 19.2 does not apply, the parties shall use all reasonable endeavours for a period of 30 days to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

During such period, the obligations of the parties under any invalid or unenforceable provision of this Agreement shall be deemed suspended.

20. ENTIRE AGREEMENT

20.1 This Agreement and the documents referred to in it, constitute the entire agreement and understanding of the parties and supersede:

20.1.1 any previous agreement between the parties relating to the subject matter of this Agreement; and

20.1.2 any prior promises, representations and misrepresentations (whether oral or written) relating to the subject matter of this Agreement

but without prejudice to the rights and liabilities of the parties accrued before the date of this Agreement.

20.2 Each of the parties acknowledges and agrees that:

20.2.1 in entering into this Agreement and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, misrepresentation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement;

20.2.2 its only remedy in respect of statements, representations, misrepresentations, warranties or understandings made or repeated in this Agreement or in relation to this Agreement shall be for breach of contract and it agrees that it shall have no additional remedy in respect of such statements, representations, misrepresentations, warranties or understandings upon which it may have relied in entering into this Agreement whether for misrepresentation or otherwise; and

20.2.3 all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

20.3 Nothing in this Clause 20 shall operate to limit or exclude any liability for fraud.

21. MISCELLANEOUS

21.1 If there is any ambiguity or conflict arising between the terms of this Agreement and those of the Articles, the terms of this Agreement shall prevail as between the Shareholders. The JV Partners shall then procure the amendment of the Articles to the extent required to enable the Company to be administered as provided for in this Agreement and the documents referred to in it.

21.2 Notwithstanding any other provision contained in this Agreement, the Company shall not be bound by any provision of this Agreement to the extent that it would constitute an unlawful fetter on any statutory power of the Company, but any such provision shall remain valid and binding as regards all other parties to which it is expressed to apply.

21.3 Where any Shareholder is required under this Agreement to exercise its powers in relation to the Company to procure a particular matter or thing, such obligation shall be deemed to include an obligation to procure that any Director appointed by him shall procure such matter or thing, subject to the Director acting in accordance with his statutory duties as a director.

21.4 Nothing in this Agreement or in any document referred to in it or any arrangement contemplated by it shall constitute any Shareholder, a partner, agent, fiduciary or employee of any other Shareholder and the execution, completion and performance of this Agreement or any document referred to in it shall not confer on any Shareholder power to bind or impose any obligations to any third parties on the other Shareholders or to pledge the credit of the other Shareholders.

21.5 Each party shall upon demand and at its own expense execute and register or procure to be executed and registered all further deeds, documents and do all acts and things as may be necessary or desirable to give effect to this Agreement or any document executed or to be delivered pursuant to it.

22. NOTICES

22.1 How communications should be given

22.1.1 Any communication given under this Agreement shall be in writing and delivered by hand or prepaid recorded, special delivery or first class post (or air mail post if to an address outside the United Kingdom) to the address of the party who is to receive such communication as may from time to time be specified in writing by the relevant party as its address for the purpose of this Clause 22.

22.1.2 A communication given under or in connection with this Agreement is not valid if it is sent by electronic mail.

22.2 Deemed receipt

22.2.1 A communication shall be deemed to have been received:

- (a) if delivered by hand, at the time of delivery;
- (b) if sent by prepaid recorded, special delivery or first class post, on the second business day after the date of posting; or
- (c) if sent by prepaid air mail post, on the fifth business day from the date of posting.

22.2.2 A communication received or deemed to be received in accordance with Clause 22.2.1 on a day which is not a business day or after 5.00pm on any business day shall be deemed to be received at 9.00am on the next business day .

22.3 Proving service

In proving service:

22.3.1 by delivery by hand, it shall be necessary only to produce a receipt for the communication signed by or on behalf of the party due to receive it; or

22.3.2 by post, it shall be necessary only to prove that the notice was contained in an envelope which was properly addressed and posted in accordance with this Clause 22.

22.4 Undertaking to notify change of details

Each party undertakes to notify all of the other parties in accordance with this Clause 22 if the address specified in this Clause 22 is no longer an appropriate address for the service of communications.

23. GOVERNING LAW AND JURISDICTION

23.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

23.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes or claims (including any non-contractual disputes or claims) which may arise out of or in connection with this Agreement, its subject matter or formation (or any documents entered into in accordance with its provisions) or as to the rights and liabilities of the Shareholders in connection

with the Business and their holding of Shares and, for such purposes, irrevocably submits to the exclusive jurisdiction of the courts of England and Wales.

24. VARIATION

Subject to Clauses 7.2 (Matters reserved for the JV Partners) and 25.2 (Rights of third parties), no amendment or variation of the terms of this Agreement or any documents entered into or delivered in accordance with its provisions shall be effective unless made or confirmed in writing and signed by all of the parties to this Agreement or such document.

25. RIGHTS OF THIRD PARTIES

25.1 This Agreement does not create, confer or purport to confer any benefit or right enforceable by any person not a party to it except that a person who is a permitted successor to or assignee of the rights of a party to this Agreement is deemed to be a party to this Agreement.

25.2 Any variation, rescission or termination of any term of this Agreement shall only be effective if agreed in writing between all of the JV Partners [and the Company] and no other person's agreement or consent shall be required for such variation, rescission or termination.

26. COUNTERPARTS

This Agreement may be executed in any number of counterparts all of which taken together shall constitute one and the same document, and any party may execute this Agreement by signing any one or more of such counterparts.

SCHEDULE 1

Details of the Company At Completion

Company number: [TBC]

Date of incorporation: [TBC]

Name: TWAM Enterprises Ltd

Registered office: [TBC]

Share Capital: 100 shares at £1 each

Shareholdings:

Name	Number of Shares Held	Percentage %
Gateshead Council	20	20
Newcastle City Council	20	20
North Tyneside Council	20	20
South Tyneside Council	20	20
The University of Newcastle	20	20

Directors: (1) [insert name], TWAM Director (ex officio); (2) [insert name], Head of Finance, Governance and Resources (ex officio); (3) [insert name of director appointed by the TWAM Strategic Board]; and (4) [insert name(s) of independent directors].

Chair: [insert name of person appointed by the JV Partners]

Secretary: [Insert name], TWAM Finance Director.

Bankers: [Insert name]

Auditors: [Insert name]

Accounting reference date: [TBC]

SCHEDULE 2

Form of Deed of Adherence

This Deed is made on 201[●] by [●] [Limited][plc][CN [●]] whose registered office is at [●][of [●]] (**New Shareholder**).

BACKGROUND

- (A) By an agreement dated [●] 2017 (**Shareholders' Agreement**) and made between Gateshead Council, Newcastle City Council, North Tyneside Council, South Tyneside Council, The University of Newcastle [and TWAM Enterprises Limited] (together the **Company**) [and to which [](**Transferor**) is a party by virtue of a Deed of Adherence dated [●] 201[●]], [●] (**Transferor**) has agreed to sell and transfer to the New Shareholder [number] Shares, conditional upon the New Shareholder entering into this Deed of Adherence.
- (B) The New Shareholder wishes to acquire those Shares, subject to such condition, and to enter into this Deed of Adherence pursuant to the Shareholders' Agreement.

THIS DEED WITNESSES:

- (a) The New Shareholder undertakes to and covenants with all the parties to the Shareholders' Agreement from time to time (including any person who enters into a Deed of Adherence pursuant to the Shareholders' Agreement, whether before or after this Deed is entered into) to comply with the provisions of and to perform all the obligations of the Transferor in the Shareholders' Agreement in so far as they remain to be observed and performed, as if the New Shareholder had been an original party to the Shareholders' Agreement in place of the Transferor.
- (b) The Transferor assigns to the New Shareholder its share of its rights, under the Shareholders' Agreement in proportion to the number of shares transferred as against the number of shares retained by the Transferor (if any).
- (c) Except as expressly varied by this Deed, the Shareholders' Agreement shall continue in full force and effect and the Shareholders' Agreement shall be interpreted accordingly.
- (d) The interpretation provisions and the provisions of Clauses 16 (Costs), 20 (Entire agreement), 22 (notices), 23 (Governing law and jurisdiction), 25 (Rights of third parties) and 26 (Counterparts) of the Shareholders' Agreement apply to this Deed as if those provisions had been set out expressly in this Deed which shall take effect from the date set out above.

Executed by the parties as a deed on the date set out above.

SCHEDULE 3

Matters reserved for the Shareholders – Clause 7.2

Part 1

Category A Major Decisions – decisions made on the issues below require the prior approval of all of the JV Partners before the decisions are valid and effective:

- (a) approval of the Company's Business Plan (including budgets);
- (b) material changes to the Business Plan /adoption of new Business Plan;
- (c) approving changes to the accounting policies/principles of the Company;
- (d) change of name;
- (e) appointing the chair of Directors
- (f) any borrowing by the Company;
- (g) the Company giving any security or guarantees;
- (h) change of corporate structure of the Company;
- (i) amendment of the Articles;
- (j) amendment of the Shareholders' Agreement;
- (k) admission of new Shareholders and/or the issue of new Shares (see below);
- (l) any transfer, disposal or charging of Shares by existing Shareholder;
- (m) creation of any classes of Shares or variation to the same;
- (n) issue of further Shares to any JV Partner;
- (o) re-purchase of Shares from any JV Partner or cancellation of the same (see below);
- (p) establishing any subsidiary of the Company;
- (q) approving the distribution of Company profits, approving and/or amending a distribution policy or the Donations Policy applicable to the Company or any other form of return of capital;
- (r) sale of any of the Company's assets other than in ordinary course of business or with a value in excess of £50,000;
- (s) acquiring assets (including property assets and interests) other than in the ordinary course of business or with a value in excess of £50,000;
- (t) entering into contract or arrangement with a JV Partner (but the decision may only be taken with exclusion of the JV Partner concerned) (excluding Shareholders' Agreement);
- (u) closing or winding up the Company or taking any steps in anticipation of doing so;

- (v) the Company entering into any further Company arrangements, partnerships or other collaborations with a third party or merging or amalgamating with the same;
- (w) the Company expanding its Business activities outside those of the agreed Business Plan or closing down any Business operation;
- (x) the Company terminating any agreement of a material/fundamental nature in the context of its Business or making any material amendment to such agreement;
- (y) removal of any Director;
- (z) initiation and/or settlement of legal proceedings involving amounts in excess of £50,000 (excluding the enforcement of the management contracts referred to below);
- (aa) entering into any contract or commitment of the Company which is material in nature or which has a value of or likely to involve expenditure in excess of £50,000 or making a variation to any existing contract or commitment which would have such effect; and/or
- (bb) engaging any senior employees or engaging any employee, appointing any consultant, agent or contractor with an annual fee and / or salary in excess of £50,000 or varying the terms of any such engagement which would have such effect.

Part 2

Category B Major Decisions – decisions made on the issues below require the prior approval of the majority of the JV Partners before the decisions are valid and effective:

- (a) establishing any pension scheme, share scheme or similar arrangement for employees;
- (b) change of the Company's financial year end;
- (c) change of auditors;
- (d) change of registered office;
- (e) acquisition of shares, debentures or securities (e.g. investment) in any other person or company;
- (f) any related party transaction, arrangement or dealings between the Company and a director(s);
- (g) appointment and variation of bankers and bank mandates;
- (h) transfer of control of the Company's management to any other person;
- (i) any payment of fees, remuneration or other benefits to a director (other than reasonably and properly incurred expenses).

SCHEDULE 4
Initial Business Plan

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

IN WITNESS whereof the parties have executed this Agreement on the day and year first before written.

THE COMMON SEAL OF THE BOROUGH)
)
COUNCIL OF GATESHEAD)
)
was hereunto affixed in the presence of:)

Mayor

Strategic Director of Legal
and Corporate Services

THE COMMON SEAL OF THE COUNCIL)
)
OF THE CITY OF NEWCASTLE UPON TYNE)
)
was hereunto affixed in the presence of:)

Lord Mayor

Assistant Director Legal Services

THE COMMON SEAL OF THE BOROUGH)
)
COUNCIL OF NORTH TYNESIDE)
)
was hereunto affixed in the presence of:)

Mayor

Head of Legal and Democratic
Services and Monitoring Officer

THE COMMON SEAL OF THE COUNCIL OF

)

THE BOROUGH OF SOUTH TYNESIDE

)

was hereunto affixed in the presence of:

)

)

Mayor

Head of Legal Services

Executed as a deed by THE UNIVERSITY OF
NEWCASTLE UPON TYNE acting by [insert name] in the
presence of [insert name] of witness:

Signature (Witness).....

Print Name.....

Address.....

.....

Occupation.....

[Executed as a deed by TWAM Enterprises Ltd acting by

[insert name] in the presence of insert name of witness:

Signature (Witness).....

Print Name.....

Address.....

.....

Occupation.....]

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TITLE OF REPORT: Hackney Carriage Fare Maxima

REPORT OF: Paul Dowling, Strategic Director, Communities and Environment

Purpose of the Report

1. Cabinet is asked to consider the request by a local hackney carriage licensee, for an increase in the maximum fares that can be charged for hackney carriage journeys in the Borough, following a consultation exercise and a Policy Advisory Group discussion. In addition Cabinet is asked to consider whether the formula used is fit for purpose.

Background

2. The matter before Cabinet following the recommendation of 7 February 2017 is to:

"Take the matter to consultation with the Hackney Carriage trade and more widely including a notice in the press and if any objections are received to bring the matter back for a decision to be made as to the merits of any increase and the appropriate amount of that increase".
3. The Council has the power to fix the maximum fares charged for hackney carriage journeys within the Borough, under section 65(1) of the Local Government (Miscellaneous Provisions) Act 1976.
4. The request from the hackney carriage licensee to increase Hackney Carriage Fare Maxima is reproduced below. He has applied for an increase of 15%

"I have just been reading this months Private Hire Monthly magazine and note that based on a 2 mile journey Gateshead Council has the lowest rates of any borough within the region.

Due to the increased living costs and the recent rise in minimum wage I would propose a 15% rise in metered fares, this would make us comparable to Newcastle (£5.80) & Durham (£5.90). Currently Gateshead runs at £5.10 for a 2 mile journey and this increase would take us to £5.86 for the same distance. I would hope this increase would also be incorporated into T2."

5. For information and explanation :

A comparison of hackney carriage fares in the region is attached in Appendix 2. (T2 refers to Tariff 2 on the Hackney Carriage Fares Scale which applies from 23:00 until 07:00 Monday to Saturday, all day on Sundays and Bank Holidays and from 18:00 on 24 December until 07:00 on 27 December and from 18:00 on 31 December to 07:00 on 2 January)

6. Cabinet considered this matter in February and asked for a consultation exercise to consider the following:
- whether the requested rise, or any alternative rise in hackney carriage fares is reasonable
 - whether the requested rise should be authorised at this point in time subject to a consultation being undertaken on the suggested increase.
 - whether the Hackney Carriage Fare Formula is an appropriate mechanism to verify the appropriateness of any requested fare increase.

Consultation

7. A comprehensive consultation exercise has been carried out. The consultation exercise involved letters being sent to all Hackney Carriage Drivers and Proprietors and all Private Hire Operators who in some cases use the services of Hackney Carriage Vehicles. A notice was also put in the local press. This gave a period of 21 days to make any comments. In total three responses were received. These are set out in Appendix 3.

Policy Advisory Group

8. The matter was discussed on 6 April 2017 by a Policy Advisory Group. The group felt that in light of the increase in November 2014, the outcome of the fare formula calculation and the lack of support following the comprehensive consultation exercise, no rise would be appropriate currently.
9. The Group did however feel that the current process to secure a fare increase, including the use of the Fare Formula and whether a calculation should be made on an annual basis should be further considered by Officers. The notes from the Policy Advisory Group are attached in Appendix 4.

Recommendation

10. It is recommended that Cabinet agrees to:
- (i) Reject the proposed fare increase.
 - (ii) Allow officers to review the mechanism (including the frequency) for calculating Hackney Carriage Fare increases.

For the following reason:

To ensure that any increases in the hackney carriage tariff do reflect the true costs of running and providing a hackney carriage service.

CONTACT: John Bradley **Extension:** 3905

Policy Context

1. The purpose of the Council's licensing function is to protect public safety. The functions of the Council with respect to hackney carriage licensing contribute towards the Council Plan 2015 - 2020 and in particular the shared outcomes of:
 - Prosperous Gateshead - a thriving economy for all
 - Live Love Gateshead – a sense of pride and ownership by all
 - Live Well Gateshead - a healthy, nurturing and inclusive place for all

The licensing function also contributes to the fulfilment of the Council's vision for Gateshead, Vision 2030 which is: *"Local people realising their full potential, enjoying the best quality of life in a healthy, equal, safe, prosperous and sustainable Gateshead"*.

2. The Local Transport Plan for Tyne and Wear reflects the importance of the provision of taxis as part of the local transport network.

Background

3. The Council has the power to fix the fares charged for hackney carriage journeys within the Borough, under section 65(1) of the Local Government (Miscellaneous Provisions) Act 1976.
4. Under the Constitution, the Service Director, Development, Public Protection and Transport Strategy is authorised to deal with all applications for hackney carriage fares to be increased in accordance with the Council's agreed hackney carriage fare formula which was approved by Cabinet on 27 January 2004.
5. Requests for tariff rises that are not in accordance with the formula or which propose to substantially change the structure of the formula must be considered by Cabinet.

Consultation

6. There has been a consultation exercise undertaken involving the Hackney Carriage Trade, both Proprietors and Drivers and Private Hire Operators in Gateshead and a notice has been placed in the local press. A policy advisory group attended by Members has also been held. The Cabinet Member for Environment and Transport has been consulted.

Alternative Options

7. The alternative option would be to approve the request.

Implications of Recommended Options

8. Resources

- a. **Financial Implications** – The Strategic Director, Corporate Resources confirms that there are no direct financial implications arising from the recommendations of this report.
- b. **Human Resources Implications** – There are no human resources implications from the recommended options.
- c. **Property implications** – There are no property implications arising directly from this report.

9. **Risk Management Implications** – There are no risk management implications from the recommended options.

10. **Equality and Diversity Implications** – There are no equality and diversity implications from the recommended options.

11. **Crime and Disorder Implications** – There are no crime and disorder implications from the recommended options.

12. **Health implications** - There are no health implications arising from this report

13. **Sustainability Implications** – There are no sustainability implications from the recommended options.

14. **Human Rights Implications** – There are no human rights implications from the recommended options.

15. **Area and Ward Implications** – None.

Background Information

These documents that have been considered in preparation of the report:

- Local Government (Miscellaneous Provisions) Act 1976
- Gateshead Council's hackney carriage fare formula (2004)

<u>Authority</u>	<u>Tariff 1 - Average Fare for a 1 mile journey</u>
1) Newcastle	£4.20
2) Darlington	£4.00
3) Sunderland	£4.00
4) Morpeth (Northumberland)	£3.90
5) Durham	£3.79
6) Tynedale (Northumberland)	£3.70
7) South Tyneside	£3.60
8) Gateshead	£3.50
9) Wansbeck (Northumberland)	£3.50
10) Alnwick (Northumberland)	£3.40
11) Blyth (Northumberland)	£3.40
12) Hartlepool	£3.40
13) Berwick (Northumberland)	£3.30
14) Stockton	£3.15
15) Redcar	£3.00
16) Middlesbrough	£2.80
17) North Tyneside	£2.80

<u>Authority</u>	<u>Tariff 2 - Average Fare for a 1 mile journey</u>
1) Darlington	£5.00
2) Sunderland	£4.80
3) Durham	£4.79
4) Newcastle	£4.60
5) Wansbeck (Northumberland)	£4.50
6) Gateshead	£4.40
7) Morpeth (Northumberland)	£4.40
8) Tynedale (Northumberland)	£4.40
9) Alnwick (Northumberland)	£4.25
10) South Tyneside	£4.20
11) Berwick (Northumberland)	£3.90
12) Blyth (Northumberland)	£3.90
13) Middlesbrough	£3.80
14) Stockton	£3.77
15) Hartlepool	£3.74
16) North Tyneside	£3.70
17) Redcar	£3.50

Consultation Responses

Response Number 1

From a personal standpoint I would like to suggest that any rise should not be added to the flag fall and should be gained from, for example, yardage, waiting time, earlier start/Later end to tariff 2 or a complete overhaul to the application of tariffs e.g. Starting tariff 2 at 9pm on Friday to 11.59pm Sunday and just normal tariffs 1 & 2 Monday to Friday (Friday till 20.59) Obviously the above are just examples. Please be mindful that any rise is reliant on no increases and/or in costs direct/indirect to the driver through licensing.

Response Number 2

I would welcome the proposed increase but would prefer to have no increase on the flag fall but do it through a reduction in the yardage.

Response Number 3

Regarding the latest meeting on a 15% fare rise for hackney my opinion on this is that there is already very little advantage for the hackney trade although very much needed the fare rise would be detrimental in that already private hire are cutting fares in order to attract trade and we are also losing jobs in the ranks as the private hire take jobs while 4 taxis are standing on the rank a 5th comes along and takes the job with the excuse we were 'called' so as you can see rather than being helpful it will further discourage customers from using the hackneys. Private are at an advantage as they take over jobs at the rank and pay less for their licence fee it seems that we are already at a disadvantage the fare increase will not help us.

Clarification: Private Hire and Hackney Carriage fees are the same so the point in response 2 about Hackney Carriage Drivers being at a disadvantage is in fact incorrect.

POLICY ADVISORY GROUP

Thursday, 6 April 2017

Report to Cabinet

Hackney Carriage Fare Increase

1 CONSULTATION ON HACKNEY CARRIAGE FARE INCREASE AND FARE CALCULATION FORMULA

The Policy Advisory Group agreed that:-

- 1) the 15% fare increase requested was not appropriate at this time
- 2) that no fare increase was necessary at this time
- 3) that the fare formula will be looked at to see if it is fit for purpose and will be reviewed on a periodic basis but this will not be in the immediate future. The Advisory Group did not feel that it was necessary to introduce any change to the fare formula at the moment.

MEMBERS PRESENT: Councillors: M Charlton, K Dodds, M Graham, S Green, M Hood, P Mole, I Patterson and N Weatherley

OFFICERS PRESENT: John Bradley, Gary Callum, Helen Conway

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TITLE OF REPORT: Council Tax and Non-Domestic Rates – Transfer of Uncollectable Amounts

REPORT OF: Darren Collins, Strategic Director, Corporate Resources

Purpose of the Report

1. This report asks Cabinet to approve the transfer of outstanding balances from Council Tax and Non-Domestic Rates (NDR) accounts, where all possible recovery action has been taken and the balances are now considered to be uncollectable.

Background

2. Council Tax and NDR charges are levied in accordance with statutory legislation. Under the localisation of Business Rates, a proportion of monies collected by the Council are retained locally to form part of the core funding of the Council.
3. Charges which remain unpaid are subject to prompt appropriate recovery action. Despite this action there remain some debts, which are considered uncollectable.
4. The amounts, which have been identified as uncollectable are summarised at Appendix 1. These balances represent the full amount identified as uncollectable at the end of the financial year 2016-17.

Proposal

5. It is proposed to transfer the balance of 1,434 accounts to the value of £247,734.02 for Council Tax and 151 accounts to the value of £313,987.60 for Non-Domestic Rates.
6. In addition to this, balances of £500.00 or less on 3,015 individual accounts totalling £260,292.13 in respect of Council Tax and 70 accounts totalling £6,277.66 for Non-Domestic Rates, have been transferred under delegated powers in accordance with Financial Regulation 8.10.
7. The total proposed transfer is therefore £508,026.15 Council Tax and £320,265.26 Non Domestic Rates of uncollectable balances. Of the proposed NDR transfer, £318,091.99 is as a result of insolvency.
8. The amount of the proposed transfer represents 0.6% of the Council Tax collectable debit and 0.3% of the NDR collectable debit for 2016-17.

Recommendations

9. It is recommended that Cabinet notes the action taken under delegated powers to transfer 3,015 accounts totalling £260,292.13 in respect of Council Tax and 70 accounts totalling £6,277.66 in respect of NDR and agrees to:

- (i) The transfer of 1,434 accounts in respect of Council Tax balances totalling £247,734.02.
- (ii) The transfer of 151 accounts of NDR balances totalling £313,987.60.

For the following reason:

- (i) To ensure the effective management of the Council's resources.
- (ii) To ensure that the Council Accounts accurately reflect the correct financial position.

CONTACT: John Jopling extension 3582

APPENDIX 1

Policy Context

1. The proposals in this report are consistent with the Council's vision and medium term objectives as set out in Vision 2030 and the Council Plan and, in particular the key Council priority of ensuring a sustainable Gateshead through ensuring the best use of its resources.

Background

2. The transfer reflects Council Tax and NDR accounts where the recovery process has been exhausted and it is no longer cost effective to pursue the cases through the court process.

Details of Debts Included in Transfer

3. The tables below give details of the reason and the year that the debt was created.

Council Tax

Year of Debit	Deceased	Insolvency	Other	Total
	£'000's	£'000's	£'000's	£'000's
Prev Years	3	27	74	104
2011/12	4	11	12	27
2012/13	1	14	15	30
2013/14	4	22	35	61
2014/15	6	31	57	94
2015/16	6	46	73	125
2016/17	2	39	26	67
Total				508

Non-Domestic Rates

Year of Debit	Insolvency	Other	Total
	£'000's	£'000's	£'000's
Prev Years	41	1	42
2015/16	151	0	151
2016/17	126	1	127
Total			320

Consultation

5. The Leader of the Council has been consulted on this report.

Alternative Options

6. No alternative options are proposed. A regular review of debt owed to the Council is an essential part of good recovery and accounting procedures.

Implications of Recommended Option

7. **Financial Implications** - The Strategic Director, Corporate Resources confirms that the cost of the transfer of £508,026.15 for Council Tax and £320,265.26 for NDR can be met from the provision set up in the Collection Fund.
8. **Risk Management Implications** – The transfers mitigate the risk of entries in the Council’s statement of accounts being incorrect.
9. **Human Resources Implications** – Nil
10. **Equality and Diversity Implications** – Nil
11. **Health Implications** - Nil
12. **Crime and Disorder Implications** - Nil
13. **Sustainability Implications** - Nil
14. **Human Rights Implications** – Nil
15. **Area and Ward Implications** – All Wards

Background Information

16. Nil

TITLE OF REPORT: **Surrender of Lease: Sunderland Road Library and Recreation Ground**

REPORT OF: **Mike Barker, Strategic Corporate Services and Governance**

Purpose of the Report

1. To seek approval to the surrender of the Council's leasehold interest in the land at Sunderland Road on which the former Sunderland Road Library and Recreation Ground are located (the Subject Site).

Background

2. The Subject Site, which is shown edged black on the attached plan, is leased by the Council from the Master and Ancient Brethren of the Hospital of King James (Landlord) for a term of 200 years from 1st May 1900.
3. The lease originally provided that the land be used for the purposes of Open Space/Public Pleasure Grounds only.
4. On 1 June 1978 the Council obtained a Deed of Release and Variation in respect of the lease terms. The Variation to the lease permitted the use of part of the Subject Site to be changed to that of the use of a Public Library (the remaining land in the lease is still used for recreational purposes) thus enabling the Council to build and operate a library.
5. The Library located on the Subject Site has until recently operated as a volunteer run library operated by the Sunderland Road Library Volunteer Association (SRLVA). The library closed at the end of March 2017.
6. The Landlord holds other land and properties in the vicinity including the Almshouse on Sunderland Road. .
7. The purpose of the Almshouse is to provide affordable accommodation to vulnerable and disadvantaged members of the local community.
8. The main block of the Almshouse is now coming to the end of its life in addition to which the building also contains a large amount of asbestos.
9. The Landlord approached the Council seeking a surrender of its leasehold interest at Sunderland Road on the basis that if the Council was willing to surrender its interest the Landlord would be able to construct a new Almshouse and associated facilities on the site.
10. This new building would be funded from the sale of the existing Almshouse site for housing development.

Proposal

11. To agree to the surrender of the lease dated 1 May 1900 and to maintain the Subject Site whilst development proposals for new Almshouse are progressed.

Recommendations

12. It is recommended that the Council enter into a deed to formally surrender the lease dated 1st May 1900.

For the following reason:

To dispose of a surplus asset and reduce the on-going liabilities of the Subject Site.

CONTACT: Steven Hayles extension: 3466

Policy Context

1. The proposed surrender will support the overall vision for Gateshead as set out in Vision 2030 and the Council Plan, in particular; '*Sustainable Gateshead*' and will assist in the aspiration of ensuring a sound future for Gateshead through economic prosperity.
2. The proposal will also accord with the provisions of the Corporate Asset Strategy and Management Plan 2015 – 2020. In particular, using the Council's land to support employment and housing.

Background

3. The Council holds a leasehold interest in the Subject Site that was granted by the Master and Ancient Brethren of the Hospital of King James. The lease was granted to the Council for a term of 200 years with effect from 1 May 1900.
4. The lease provided that the land is to be used for the purposes of Open Space/Public Pleasure Grounds only. However, in 1978 the Landlord agreed with the Council to vary the lease to allow part of the Subject Site to be used for the building of a public library
5. In December 2015 the Council granted a Lease to the SRLVA to manage the day-to-day running of the Library facility. However, in November 2016 the SRLVA notified the Council of their intention not to renew the Lease and cease the day-to-day running of the facility with effect from 31st March 2017. The building has subsequently closed.
6. Also, in 2015, representatives of the Landlord approached the Council to seek a surrender of the Lease dated 1 May 1900 in order to provide a new Almshouse on the site of the recreation ground. The Landlord currently provides an Almshouse on Sunderland Road, opened in 1974, which provides affordable residential accommodation to vulnerable and disadvantaged members of the local community. The existing accommodation includes 22 individual flats and 8 bungalows. The Landlord has been advised that the building is coming to the end of its economic life, as the maintenance costs are disproportionately expensive and maintenance work involves significant disruption to the residents.
7. In order to provide a continued service the Landlord is seeking new premises and re-providing the facility on the Subject Site is an option that is being considered, subject to planning permission.
8. It will be a condition of any planning permission that the open space will be required to be re-provided.
9. The Council will continue to maintain the Subject Site whilst proposals are further developed.

Consultation

10. In preparing this report, consultations have taken place with the Leader, Deputy Leader and Cabinet Members for Housing. Ward councillors have also been consulted.

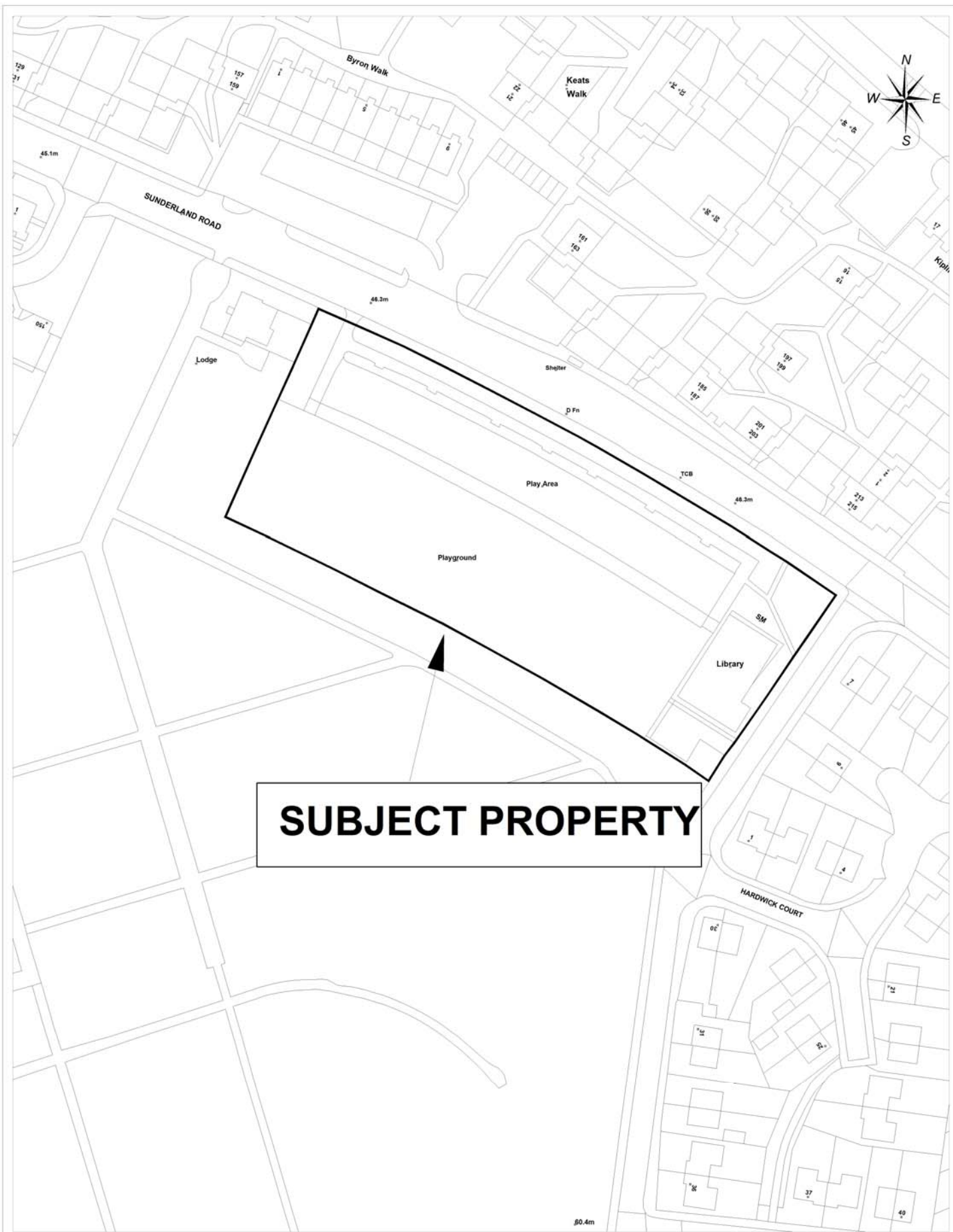
Alternative Options

11. An alternative option of not entering into discussions with the Landlord has been considered. However, this has been rejected as the Library building is now vacant and there is now an opportunity to reduce the Councils financial liabilities of the Subject Site.


Implications of Recommended Option

12. **Resources:**
 - a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that the proposed surrender of the lease will result in the Council ceasing to pay ground rent and site maintenance costs. Surrender of the lease will also help to facilitate the future development of the site.
 - b) **Human Resources Implications** – There are no human resource implications as a result of the surrender of the lease.
 - c) **Property Implications** - The Corporate Property Officer confirms that the surrender of the lease will release the Council from the cost of maintaining the subject site and provide the opportunity for new housing of varying tenures.
13. **Risk Management Implication** - There are no risk management implications as a result of the surrender of the lease
14. **Equality and Diversity Implications** - There are no equality and diversity implications as a result of the surrender of the lease.
15. **Crime and Disorder Implications** – There are no crime and disorder implications as a result of the surrender of the lease.
16. **Health Implications** –There are no health implications as a result of the surrender of the lease.
17. **Sustainability Implications** - There are no Sustainability implications as a result of the surrender of the lease.
18. **Human Rights Implications** – There are no Human Rights implications as a result of the surrender of the lease.
19. **Area and Ward Implications** – Bridges in the Central area.

Background Information



SUBJECT PROPERTY

Title Sunderland Road Recreation Ground		<small>© Crown Copyright and database rights 2016. Ordnance Survey license number 100019132.</small>		 Gateshead Council <small>Legal, Democratic and Property Services Corporate Services and Governance Gateshead Council</small>
Scale 1:1250	Date Created 11th April 2017	Drawn By Judith Davis	Drawing Number EM10/07/102/010 (2)	
		Date Printed Page 305	Rev O/S NUMBER NZ2662NW	

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TITLE OF REPORT: Petitions Schedule

REPORT OF: Mike Barker, Strategic Director, Corporate Services and Governance

Purpose of the Report

1. To provide an update on petitions submitted to the Council and the action taken on them.

Background

2. Council Procedure Role 10.1 provides that any member of the Council or resident of the borough may submit a petition to the Leader of the Council, to another member of the Council nominated by the Leader, to the Chief Executive or a Strategic Director.

Proposal

3. The Cabinet is asked to note the petitions received and actions taken on them.

Recommendations

4. It is recommended that Cabinet notes the petitions received and action taken on them.

For the following reason:

To inform the Cabinet of the progress of the petitions.

CONTACT: Mike Aynsley extension: 2128

Policy Context

1. The information is provided in accordance Council Procedure Rule 10.2 whereby progress of petitions is to be reported regularly to meetings of the Cabinet. The procedure supports the Council Plan.

Background

2. Council Procedure Rule 10.1 provides that any member of the Council or resident of the borough may submit a petition to the Leader of the Council, to another member of the Council nominated by the Leader, to the Chief Executive or a Strategic Director.

Consultation

3. This report has been prepared following consultation as set out in the schedule.

Alternative Options

4. There are no alternative options.

Implications of Recommended Option

5. Resources:

a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that there are no financial implications arising from this report.

b) **Human Resources Implications** – Nil

c) **Property Implications** - Nil

6. **Risk Management Implication** - Nil

7. **Equality and Diversity Implications** - Nil

8. **Crime and Disorder Implications** – Nil

9. **Health Implications** - Nil

10. **Sustainability Implications** - Nil

11. **Human Rights Implications** - Nil

12. **Area and Ward Implications** - Borough wide

Background Information

13. Petitions schedule attached.

APPENDIX 2

PETITIONS SUBMITTED TO GATESHEAD METROPOLITAN BOROUGH COUNCIL

DATE RECEIVED	REF	FROM	ISSUE	FORWARDED TO	ACTION TO DATE
6.07.16 Submitted to Communities and Environment	8/16	Residents of Greenside	Petition requesting a zebra crossing on Lead Road, Greenside	Strategic Director, Communities and Environment	The petitioners request was investigated and action was not considered to be justified. A proposed response was agreed with local ward members and the Cabinet Member for Environment and Transport. The lead petitioner has been advised accordingly and it is proposed that the petition be removed from the schedule.
24 24.08.16 Submitted to The Gateshead Housing Company	13/16	Petition from residents of Ventnor Gardens	Petition complaining about the height of trees in neighbouring properties and asking for them to be cut back to a reasonable height.	Strategic Director, Communities and Environment/ The Gateshead Housing Company	The petition raised concerns about the large trees which belong to a private property. The land owner has requested a list of approved contractors in order to obtain estimates to carry out the works. The Council's Arboricultural Officer has provided a list of approved contractors and has requested a rough timetable for the works to be completed. The Cabinet member, ward councillors and the lead petitioner will be kept advised when a timetable is received.
20.02.17 Submitted to The Gateshead Housing Company	02/07	Petition from residents of Springwell Close and South Lea	Petition asking for the broken ground at the end of Springwell Close and South Lea to be repaired.	Strategic Director, Communities and Environment	A site visit was undertaken on 7 April and one of the petitioners was spoken to at the time. Resurfacing costs have been obtained and works are expected to be carried out to make good the area during

					May 2017. It is proposed that the petition be removed from the schedule.
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