

Public Document Pack



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Monday 24 April 2017

Notice of Meeting

Dear Member

Cabinet

The **Cabinet** will meet in the **Council Chamber - Town Hall, Huddersfield** at **4.00 pm** on **Tuesday 2 May 2017**.

This meeting will be live webcast. To access the webcast please go to the Council's website at the time of the meeting and follow the instructions on the page.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Assistant Director of Legal, Governance and Monitoring

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Cabinet Members are:-

Member

Councillor David Sheard

Councillor Shabir Pandor

Councillor Peter McBride

Councillor Naheed Mather

Councillor Musarrat Khan

Councillor Erin Hill

Councillor Viv Kendrick

Councillor Masood Ahmed

Councillor Graham Turner

Responsible For:

Leader / Strategy and Strategic Resources, New Council & Regional Issues

Deputy Leader / Strategy and Strategic Resources, New Council & Regional Issues

Economy, Skills, Transportation & Planning

Housing & Enforcement Management

Highways & Neighbourhoods

Family Support & Child Protection

Adults, Health & Activity to Improve Health

Community Cohension & Schools

Asset Strategy, Resources & Creative Kirklees

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

To receive apologies for absence of Members who are unable to attend this meeting.

2: Minutes of previous meetings

1 - 12

To approve the Minutes of the meetings of the Committee held on 7 and 27 March 2017.

3: Interests

13 - 14

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

4: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

5: Deputations/Petitions

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

6: Public Question Time

The Committee will hear any questions from the general public.

7: Member Question Time

To consider questions from Councillors.

8: Early Review of the 2016-17 Council General Fund Revenue Outturn

15 - 20

A report considering proposals to release revenue resources into Council financial resilience reserves as part of the 2016-17 final accounts process

Officer: Eamonn Croston 01484 221000

Wards

Affected: All Wards

9: Update of the Council's Estate Management Policy for Non-operational Land and Buildings 21 - 78

A report seeking approval for the replacement of the current Estate Management Policy with the Corporate Estate Management Policy and the Corporate Disposals & Acquisitions Policy.

Officer: Joe Tingle: 01484 221000
Wards: All

Wards

Affected: All Wards

10: Kirklees Partnership with National Citizen Service 79 - 84

A report providing information relating to the establishment of a pioneering partnership with the National Citizen Service.

Officer: Martin Green: 01484 221000

Wards

Affected: All Wards

11: Nexus In-School: Transfer of Responsibility to C&K Careers Ltd 85 - 88

A report seeking consideration of the proposal to transfer the responsibility of the Nexus in-School programme to C&K Careers Ltd.

Officer: Martin Green: 01484 221000

Wards

Affected: All Wards

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Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

CABINET

Tuesday 7th March 2017

Present: Councillor David Sheard (Chair)
Councillor Shabir Pandor
Councillor Peter McBride
Councillor Musarrat Khan
Councillor Erin Hill
Councillor Masood Ahmed
Councillor Graham Turner

Apologies: Councillor Naheed Mather
Councillor Viv Kendrick

186 Membership of the Committee

Apologies for absence were received on behalf of Councillors Kendrick and Mather.

187 Minutes of previous meeting

RESOLVED – That the minutes of the meetings held on 17 January, 31 January and 7 February 2017 be approved as a correct record.

188 Interests

No interests were declared.

189 Admission of the Public

It was noted that Agenda Items 17 and 18 would be considered in private session. (Minute Nos 202 and 203 refer).

190 Deputations/Petitions

Cabinet received deputations from (i) Mr Ken Shaw regarding the concerns relating to the Council's application of VAT regulations and (ii) Mr Hasan Badat regarding the provision of non-intrusive autopsies within the Kirklees area.

191 Public Question Time

No questions were asked.

192 Member Question Time

No questions were asked.

193 Corporate Performance Report - 2016-17. Quarter 3

Cabinet received the Quarter 3 Performance Report which provided an overview of the Council's corporate performance at the end of Quarter 3 2016/2017, and included updates on progress against outcomes in the joint Health and Wellbeing Strategy and Kirklees Economic Strategy.

Key points to note within the report were summarised at paragraph 2 and included an update on the Children and Families Act review, the recent Ofsted concerns regarding the Early Help offer, preventions of homelessness, the establishment of the Tackling Poverty Cross Party Working Group and the progress of Dewsbury Learning Quarter.

RESOLVED - That the Quarter 3 Performance Report (October to December 2016) be received and noted.

194 Community Asset Transfer Policy

Cabinet received a report which sought approval of the revised Community Asset Transfer Policy. The report advised that the Asset Advancement Policy had been approved by Cabinet in October 2013 and provided for a review of the policy at a later date. The subsequent reviewed version was appended to the considered report and developed further upon the 2013 version, building upon lessons learned from the asset transfers that had been completed to date, and re-branding the policy to the 'Asset Transfer Policy'. Cabinet noted that the reviewed policy introduced a grant application process for financial support for groups that required it, whereas the 2013 policy had no mechanism for financial report.

Cabinet were asked to give consideration to the approval of the revised Asset Transfer Policy and the implementation of the incentivisation proposals as detailed within the report.

RESOLVED –

- 1) That the updated Asset Transfer Policy be approved.
- 2) That approval be given for the updated Asset Transfer Policy to replace the 2013 Asset Advancement Policy and become effective from 1 April 2017.
- 3) That it be noted that the new policy will be applied to the three Asset Transfers scheduled for consideration at Cabinet Committee – Assets on 28 March 2017.

195 Review of Local Welfare Provision Policy and Credit Union(s) Loan Scheme(s) for Kirklees Residents

Cabinet received a report which set out proposals for implementing change to the Local Welfare Provision Scheme following the decision to reduce the budget for 2017/18 and subsequent years.

The report advised that the reductions (£410,000 in 2017/18, and a further £80,000 in 2018/19) would not impact upon the provision of food, fuel or support with winter coats/uniforms. Cabinet noted that in order to mitigate the removal of the furniture scheme, work had been undertaken with three credit unions to implement a low cost loan scheme in addition to the accessibility of credit unions for Kirklees residents.

RESOLVED –

- 1) That the changes to the Local Welfare Provision scheme, as detailed within the considered report, be noted.
- 2) That the progress being made in relation to the developments at the Credit Union be noted.
- 3) That approval be given to the provision of start-up financial assistance to Borough and Parish Credit Union, subject to further discussions and delegation to the Assistant Director Financial Management, IT , Performance and Risk.

196 Sufficient primary pupil places in the Huddersfield North area

Cabinet gave consideration to a report which sought approval to commence statutory processes with regard to a new primary Free School in the Huddersfield north area. The report set out details of the proposal to establish a new primary Free School within a new build to enable provision to 420 pupils aged 4 to 11 years.

The report provided information relating to the Council's basic duty to secure sufficient primary school places to meet basic need across the wider area of Huddersfield south-west, Huddersfield west, Huddersfield north-west and Huddersfield north, and specifically focused upon the strategy for proposals in the Huddersfield north area.

Cabinet noted that, over the last several years, the school age population in Kirklees had increased by approximately 20% and that the proposals to develop the additional primary school would meet basic need in the area by placing a new primary school at Clare Hill Playing Fields, subject to the Council's acquisition of the site and planning approval. The report advised that it was anticipated that the school would need to initially open in modular accommodation in September 2018, with the new school building to be in place by September 2019.

RESOLVED –

- 1) That officers be authorised to develop plans for seeking proposals to run a new primary free school for Huddersfield North that supports a community wide approach for enough high quality learning places to serve the families in the area by establishing a new 420 place primary free school within a new build located on Clare Hill Playing Fields.

- 2) Pursuant to (1) above, the proposed school shall cater for pupils aged 4 to 11 years and shall have a Published Admission Number of 420 places.
- 3) That authority be delegated to the Director of Children's Services, in consultation with the relevant Cabinet Member to (i) engage and liaise with all stakeholders in conjunction with the Department for Education and the Education Funding Agency and (ii) develop 'invitation to submit proposals to run a new primary academy school' materials on the basis of the proposals.
- 4) That Offices be requested to report the outcomes of the 'invitation to submit proposals' to a future meeting of Cabinet for further consideration.
- 5) That Physical Resources and Procurement be authorised to continue to develop options appraisals, undertake further feasibility studies as necessary, and design development to firm up costings and proposals for the new school building at the Clare Hill Playing Fields site.

197 Proposals for changes to specialist provision for Children with Speech, Language and Communication Needs and Autism

Cabinet received a report which advised of the outcome of the statutory processes for proposals to discontinue the ten transitional places plus outreach for children with autism at Moldgreen Community Primary School.

The report also provided an update on progress with determining a new host school for communication and interaction provision, and advised of the conclusions and recommendations of the School Organisation Advisory Group regarding the statutory process followed for the proposals to discontinue the ten transitional places.

The report advised that, subject to the approval of the recommendations, officers would support and work alongside the Governing Body of Moldgreen Community Primary School to finalise arrangements to implement the proposals from 1 April 2017. It was noted that the absence of take-up of transitional places for children at Moldgreen Community Primary School had meant that no places had been allocated since July 2014.

RESOLVED –

- 1) That the advice of the Kirklees School Organisation Advisory Group that the proposals for Moldgreen Community Primary school to discontinue the provision of 10 transitional places for children with autism are valid, and that the required statutory processes have been carried out, be noted.
- 2) That it be agreed that the decision regarding the proposals will be taken within the statutory time period.
- 3) That the outcomes and recommendations of the Kirklees school Organisation Advisory Group on 16 January 2017, and associated Officer recommendations be noted.
- 4) That the human resource and financial implications of approving the proposals be noted.
- 5) That it be confirmed that, in meeting the obligations of the Equality Act 2010 and the Public Sector Equality Duty 2011, full regard has been given to the Equalities Impact Assessment throughout the statutory process for the proposal including the decision regarding approval.

- 6) That approval be given, without modification or condition, to discontinue the provision of 10 transitional places for children with autism at Moldgreen Community Primary School.
- 7) That Officers be requested to support and work closely with the Governing Body of Moldgreen Community Primary School to finalise arrangements in order to implement the proposals from 1 April 2017.

198 Children's Improvement Plan

Cabinet received a report which sought approval for the submission of the Children's Improvement Plan to Ofsted. The report set out details of how the Council planned to improve outcomes for Children and Young People by working with partners to achieve improvement against the Ofsted recommendations which were set out within the Improvement Plan.

The report advised that the Council's vision for all children in the in the area was 'to have the best possible start in life through every child and young person being safe, loved, healthy, happy, supported to be free from harm and having the chance to make the most of their talents, skills and qualities to fulfil their potential and become productive members of society'. The Improvement Plan had been structured around the four themes of the Single Inspection Framework; (i) children who need help and protection (ii) children looked after and achieving permanence (iii) leadership, management and governance and (iv) effectiveness of the Kirklees Safeguarding Children Board, each of which addressed a number of Ofsted recommendations.

Cabinet noted that the Council were responsible for delivering improvement against the 27 Ofsted recommendations contained in the Improvement Plan and that the Independent Chair of the Safeguarding Children's Board was responsible for delivering improvement against the 10 Kirklees Safeguarding Children's Board recommendations. All 37 recommendations were combined within the Improvement Plan.

RESOLVED –

- 1) That the Children's Improvement Plan, as attached at Appendix 1 of the considered report, be endorsed for submission to the Secretary of State and Her Majesty's Chief Inspector (as stated in The Education and Inspections Act 2006 (Inspection of Local Authorities) Regulations 2007) by 9 March 2017.
- 2) That authority be delegated to the Director of Children's Services, in consultation with the relevant Cabinet Member, to finalise the Children's Improvement Plan prior to its submission to Ofsted.

199 2016/17 and 2017/18 Council Capital Plan – Proposed allocation of 2017/18 capital funding from the Directorate for Children and Young People (DCYP) baseline section of the Capital Plan along with details of proposed amendments to the 2016/17 approved programme of works

Cabinet gave consideration to a report which identified potential projects to be funded from the 2017/2018 Directorate for Children and Young People Capital Maintenance section of the Capital Plan and provided an update on the delivery of

the 2016/2017 Capital Maintenance programme as approved by Cabinet on 8 March 2016.

(Cabinet gave consideration to exempt information at Agenda Item 17 (Minute No. 202 refers) prior to the determination of this item).

RESOLVED –

- 1) That approval be given to the business case as attached at Appendix A of the report, which sets out the rationale for the schools' condition programme, the availability of funding, the selection process and the main categories of work, thereby enabling the projects concerned to be designed, procured and implemented.
- 2) That approval be given to the detailed list of proposed works in schools for 2017/2018 as attached at Appendix B of the considered report.
- 3) That authority be delegated to the Director of Economy, Skills and Infrastructure, in accordance with Financial Procedure Rules 3.9 to 3.14 (dated June 2016), to enable the programme to be managed and the implementation of the identified works contained within the respective agreed total programme budgets.
- 4) That the revised amendments and allocations applied by officers using delegated powers to the detail of the 2016/2017 Schools Capital Maintenance and Basic Need programmes, as detailed in Appendix C of the considered report, be noted.

200 Transport Services - 1 year Capital Investment Vehicle Replacement Programme 2017 - 2018

Cabinet gave consideration to a report which sought approval for a one year Capital Investment Vehicle Replacement Programme to continue the previous replacement programme which was agreed by Cabinet on 9 February 2016.

The report advised that there were currently 332 vehicles over their replacement age profile, equating to 40% of the vehicle fleet. Following the approval of the Vehicle Replacement Plan in February 2016, 62 vehicles had been procured and replaced, which had helped to reduce the over aged vehicles by 12%. It was noted that income of £320k had been generated from vehicle sales.

The report advised that the 2017/2018 baseline capital of £2m would fund the replacement of approximately 57 vehicles

Cabinet were asked to delegate authority for the management of the implementation of the Capital Investment Vehicle Replacement Programme, in accordance with the Council's Financial Procedure Rules.

(Cabinet gave consideration to exempt information at Agenda Item 18 (Minute No. 200 refers) prior to the determination of this item).

RESOLVED –

- 1) That approval be given to the continued investment of £2m in the vehicle replacement programme, for financial year 2017/2018, as identified in the capital plan approved by Council on 15 February 2017.
- 2) That authority be delegated to the Director of Economy, Skills and the Environment, as outlined in para 2.6 of the considered report, to manage the implementation of the vehicle replacement programme within the agreed budget and in accordance with Council Financial Procedure Rules 3.9 to 3.14 (dated June 2016).

201 Exclusion of the Public

RESOLVED - That acting under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

202 2016/17 and 2017/18 Council Capital Plan – Proposed allocation of 2017/18 capital funding from the Directorate for Children and Young People (DCYP) baseline section of the Capital Plan along with details of proposed amendments to the 2016/17 approved programme of works

(Exempt information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that it would not be in the public interest to disclose the information contained within the report as disclosure could potentially adversely affect overall value for money and could compromise the commercial confidentiality of the bidding organisations and may disclose the contractual terms, which is considered to outweigh the public interest in disclosing information including greater accountability, transparency in spending public money and openness in Council decision making)

Cabinet received exempt information prior to the determination of Agenda Item No. 14 (Minute No.199 refers).

203 Transport Services - 1 year Capital Investment Vehicle Replacement Programme 2017 - 2018

(Exempt information relating to the financial or business affairs of any particular person (including the authority holding that information). It is considered that it would not be in the public interest to disclose the information contained within the report as disclosure could potentially adversely affect overall value for money and could compromise the commercial confidentiality of the bidding organisations and may disclose the contractual terms, which is considered to outweigh the public interest in disclosing information including greater accountability, transparency in spending public money and openness in Council decision making)

Cabinet received exempt information prior to the determination of Agenda Item No. 15 (Minute No.200 refers).

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Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

CABINET

Monday 27th March 2017

Present: Councillor David Sheard (Chair)
Councillor Shabir Pandor
Councillor Peter McBride
Councillor Naheed Mather
Councillor Musarrat Khan
Councillor Erin Hill
Councillor Viv Kendrick
Councillor Graham Turner

Apologies: Councillor Masood Ahmed

In attendance:

Observers:

204 Membership of the Committee

Apologies for absence were received from Councillor Masood Ahmed.

205 Interests

Councillor Peter McBride declared an other interest in respect of agenda items 7 and 9 regarding Kirklees Stadium Development Ltd, request to vary existing Council financial security arrangements, due to him being a board member of Kirklees Stadium Development Ltd, and left the meeting during consideration of the items.

Paul Kemp advised Cabinet that he was the company secretary of Kirklees Stadium Development Ltd.

206 Admission of the Public

Agreed that agenda item 9 – private information relating to the Kirklees Stadium Development Ltd request to vary existing Council financial security arrangements be taken in private due to the report containing confidential information.

207 Deputations/Petitions

No deputations or petitions were received.

208 Public Question Time

No questions were asked at the meeting.

209 Member Question Time

No member questions were asked at the meeting.

210 Kirklees Stadium Development Ltd (KSDL) request to vary existing Council financial security arrangements

Cabinet considered a report setting out a request from Kirklees Stadium Development Ltd to give a second charge, ranking behind the Council's existing charge, on land at the John Smith's Stadium. The report indicated that the request was due to the security requirements with a third party lender who was proposing to advance loan finance to a subsidiary of Kirklees Stadium Development Ltd, to allow the purchase of a site near the stadium.

The report set out information on the reasons why proceeding with the purchase would be beneficial to the early delivery of the HD One scheme, which will create a regional leisure destination on land at the stadium site.

The considered report provided information on the existing charge the Council had in relation to the costs associated with the development of the stadium complex and advised on the current exposure on the loan which was anticipated to have been repaid in full by early 2021.

Cabinet were provided with information at the meeting on a request that the Council limit the amount of the Council's first charge on the stadium site on terms outlined in the considered report, which would require the Council entering into a deed of priority.

RESOLVED –

- 1) That approval be given to the request from Kirklees Stadium Development Ltd to give a second charge on the John Smith's Stadium site, Huddersfield and to release its charge on the shareholding on its subsidiary company to allow the purchase of the Gas Works Street, Huddersfield site to be secured by the relevant subsidiary company of Kirklees Stadium Development Ltd.
- 2) That the entering into a deed of priority limiting the amount of the Council's first charge on the stadium site be approved in accordance with the terms set out in the considered report.
- 3) That delegated authority be granted to the Assistant Director, Legal and Governance to enter into and execute all necessary legal documentation required to give effect to decisions 1 and 2 above.

(the Chair of the Overview and Scrutiny Management Committee had been advised of the entry to the forward plan of key decisions in relation to this matter and the need to make an urgent entry in relation to a private report being considered by Cabinet outside the 28 day notice period and had

agreed to the late entry being made and the consideration of the report by Cabinet. The Chair of the Overview and Scrutiny Management Committee had also agreed to waive the call in, due to the need to take urgent action on the matter under consideration, to ensure the offer of the sale of the Gas Works site was not withdrawn, and accordingly, the decision would be implemented immediately).

211 Exclusion of the Public

RESOLVED -

That under section 100 A4 of the Local Government Act 1972 the public be excluded from the meeting due to the consideration of the following item of business, on the grounds that it involves the likely disclosure of exempt information, as defined in part 1 of schedule 12a of the Act.

212 A Private Report in Relation to Item 210 Above.

Kirklees Stadium Development Ltd – request to vary financial security arrangements relating to the John Smith’s Stadium site, Huddersfield.

(Exempt information relating to the financial or business affairs of any particular person. It is considered that it would not be in the public interest to disclose the information contained in the report as disclosure could potentially adversely affect the overall value for money and could compromise the commercial confidentiality of the bidding organisations and may disclose the contractual terms, which is considered to outweigh the public interest in disclosing information).

Cabinet considered confidential information relating to the proposal to vary financial security arrangements in relation to the John Smith’s Stadium site, Huddersfield in relation to taking a decision on minute number 210.

RESOLVED -

That information contained within the confidential schedule be noted.

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KIRKLEES COUNCIL			
COUNCIL/CABINET/COMMITTEE MEETINGS ETC			
DECLARATION OF INTERESTS			
Name of Councillor			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Name of meeting: Cabinet
Date: 2 May 2017

Title of report: Early review of the 2016-17 Council General Fund revenue outturn

Purpose of report

To consider proposals that will release up to £9.5m revenue resources into Council financial resilience reserves as part of the 2016-17 final accounts process.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	Yes 29 March 2017
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Strategic Director & name	Jacqui Gedman, Chief Executive 19 April 2017
Is it also signed off by the Service Director for Financial, Professional & Transactional Services?	Debbie Hogg, 19 April 2017
Is it also signed off by the Service Director for Governance & Commissioning Support?	Julie Muscroft, 19 April 2017
Cabinet member portfolio Resources	Cllr Graham Turner, Portfolio Holder for Assets, Resources & Creative Kirklees

Electoral wards affected: None
Ward councillors consulted: None

Public or private: Public

1. Summary

- 1.1 The annual budget report presented at Council on 15 February 2017 set out a number of key actions the Council is taking, given the scale of the financial challenges and operational and delivery risks facing the organisation over the medium term financial plan.
- 1.2 In 2017-18 alone, to achieve a balanced budget, the Council has a planned saving requirement of £54m. The report also noted that remaining reserves available to underwrite the Council's financial resilience (risk reserves plus general balances) were forecast to be about £16m at the start of 2017-18, compared to £36m actual equivalent reserves at the start of 2016-17.

- 1.3 One of the key actions is consideration of internal approaches to reduce in-year spend and reduce avoidable costs, and where possible protect the in-year use of reserves.
- 1.4 This report sets out a number of measures as part of the 2016-17 final accounts process that will protect the in-year use of reserves by **up to £9.5m**. These early measures include the following :
 - i) apply recent government guidance which allows the Council to 'capitalise' certain types of qualifying revenue expenditure that can be funded from 'in-year' generated capital receipts;
 - ii) where capital expenditure is due to be funded from revenue in 2016-17, substitute fund this instead with borrowing; and
 - iii) review existing earmarked reserves requirements (reserves previously set aside for specific purposes), and any that are no longer required for specific purposes, to be re-directed to financial resilience reserves.

2. Information required to take a decision

- 2.1 The Council's 2016-17 general fund capital plan is about £84m, and is funded from a number of sources. These include external capital grants, capital receipts generated from the sale of Council assets, borrowing and to a lesser extent, direct revenue funding.
- 2.2 It is proposed that approved revenue funding of capital expenditure in 2016-17 be replaced with borrowing. This will release **£1.8m** revenue resources in-year, and it is intended that these transfer to 'financial resilience' reserves at year end.
- 2.3 There will be a marginal increase in borrowing costs from 2017-18 of about £23k per annum, and it is anticipated that this can be managed within the existing Council treasury management budget of £22m in 2017-18.
- 2.4 It is also proposed to apply Government guidance which allows the capitalisation of certain types of qualifying revenue expenditure in-year, funded from the flexible use of 'in-year' generated capital receipts.
- 2.5 The guidance set out by the Department of Communities and Local Government (DCLG), applies over the 2016-19 period. The web link to the guidance is included below :

[DCLG Guidance March 2016; flexible use of capital receipts](#)

Also included at Appendix A is a specific extract from the DCLG guidance which sets out the types of qualifying revenue expenditure, for information.

- 2.6 The Council's 2016-17 general fund capital plan assumes that it will be part funded (£5.4m) from capital receipts.
- 2.7 The £5.4m in-year capital receipts generated includes general fund receipts from the sale of general fund land and buildings of about £2.7m. It also includes 'right to buy' (RTB) receipts from the sale of Council houses, of about £2.7m.

These are remaining receipts that are also available to the Council, after taking account of the Council's other obligations in relation to RTB receipts generated in-year.

- 2.8 It is proposed that the **£5.4m** 'in-year' capital receipts identified in para 2.7 above be 'flexibly' applied to fund qualifying revenue expenditure in line with updated DCLG guidance.
- 2.9 To support Council service re-design/downsizing requirements, there are a number of planned staff reductions over the medium term financial plan. These are ongoing, and are intended to generate sustainable long term savings. A number of these planned staff reductions are being met through voluntary severance, and the estimated cost of voluntary severance Council wide in 2016-17 is £5.8m. These costs are currently being met from earmarked reserves.
- 2.10 The above costs meet DCLG qualifying revenue expenditure, and it is proposed that the £5.4m available in-year capital receipts be used to help fund these costs, releasing an equivalent amount from earmarked reserves.
- 2.11 The rolled forward £4.1m capital receipts from 2015-16 will be used to fund the 2016-17 capital plan. The balance of £1.4m capital funding requirement in 2016-17 will be met from borrowing.
- 2.12 This will result in a marginal increase in borrowing costs from 2017-18 of about £18k per annum, and it is anticipated that this can be managed within the existing Council treasury management budget.
- 2.13 DCLG guidelines state that the flexible use of capital receipts must be approved by full Council, but that it can be 'retrospectively' applied provided the Council's flexible use of capital receipts strategy is presented to Council at the earliest opportunity. It is intended to present the Council's flexible capital receipts strategy, incorporating the 2016-17 retrospective approval, and into the annual medium term update report to be presented to Council later in the year.
- 2.14 The Council's s151 Officer (Service Director, Financial, IT & Transactional Services) has delegated authority under Council Financial Procedure rules to review the requirement for earmarked reserves as well as report any new Reserves requirements to Cabinet.
- 2.15 The annual budget report to full Council in February 2017 includes the action to review earmarked reserves requirements as part of the 2016-17 final accounts process. It is anticipated that as a result of this review, between **£2m and £2.5m** could be freed up from existing earmarked reserves, and it is proposed that these be re-directed to strengthen the Council's financial resilience reserves .
- 2.16 The review of earmarked reserves requirement is currently ongoing and the outcome of the review will be reported in more detail as part of the financial outturn and rollover report 2016-17 to Cabinet on 30 May 2017, and full Council on 7 July 2017.

3. Implications for the Council

- 3.1 The proposals set out in this report are measures intended to strengthen the Council's overall financial resilience from the start of 2017-18, and in this context support the overall delivery of the following Council objectives and Priorities within available resources:
- i) Early Intervention and Prevention (EIP)
 - ii) Economic Resilience (ER)
 - iii) Improving Outcomes for Children
 - iv) Reducing demand of services
- 3.2 The annual budget report 2017-21 to full Council on 15 February 2017 commented on the unprecedented financial challenges facing the Council as funding continues to reduce while the cost of providing statutory services increases.
- 3.3 The approved budget plans over the 2017-21 period include the delivery of general fund revenue savings totalling £104m over a 4 year period. This includes a planned savings requirement of £54m in 2017-18 to deliver a balanced (net) revenue budget of £294m.
- 3.4 The annual budget report also included commentary on the Council's general fund reserves position. This included reserves earmarked during 2016-17 to support improvements in Children's Services, and other planned reserves movements in-year.
- 3.5 The report also noted the set aside of earmarked reserves to help the Council deliver its savings requirement in 2017-18 and future years, as well as the use of some reserves to support the Council's budget plans in 2017-18.
- 3.6 Taking account of the above, the report noted that remaining reserves available to underwrite the Council's financial resilience (risk reserves plus general balances) were forecast to be about £16m at the start of 2017-18, compared to £36m actual equivalent reserves at the start of 2016-17.
- 3.7 The proposals set out in the report represent early measures that will strengthen the Council's financial resilience reserves at the start of 2017-18 by upto £9.5m, from current forecasts.

4. Consultees and their opinions

The Council's external auditor has been informed of the flexible capital receipts proposals set out in this report and noted these actions as part of the Council's ongoing financial management arrangements.

5. Next steps

Subject to member approval, the recommendations in this report will be incorporated into the 2016-17 final accounts process, and subsequently reported on as part of the 2016-17 Financial Outturn report to Cabinet on 30 May 2017 and full Council on 7 July.

6. Officer recommendations and reasons

Cabinet are asked to support the following officer recommendations:

- i) the replacement of £1.8m revenue funded capital expenditure in 2016-17 with borrowing and associated proposals (para 2.2);
- ii) to apply DCLG flexible use of 'in-year' capital receipts and associated proposals (paras (2.8 - 2.11);
- iii) to note the year-end review of earmarked reserves requirements; the outcome of which will be reported as part of the financial outturn and rollover report to Cabinet on 30 May 2017 and and full Council on 7 July (para 2.15);
- iv) to note that the Council's flexible receipts strategy, incorporating retrospective 2016-17 approval, will be incorporated into the annual medium term update report to be presented to Council later in the year (para 2.13)

7. Cabinet portfolio holder recommendation

The Cabinet portfolio holder supports the recommendations in this report.

8. Contact officer

Eamonn Croston, Strategic Council Finance Manager
eamonn.croston@kirklees.gov.uk

9. Background Papers and History of Decisions

Appendix A – extract of DCLG guidance

DCLG statutory guidance on the flexible use of capital receipts (updated), March 2016;

[DCLG Guidance March 2016; flexible use of capital receipts](#)

Quarter 3 financial monitoring report to Cabinet [7 February 2017](#);

Annual Budget Report to full Council [15 February 2017](#)

10. Service Director responsible

Debbie Hogg, Service Director - Financial, IT & Transactional Services
Email: debbie.hogg@kirklees.gov.uk

APPENDIX A – Extract of DCLG Guidance

(4) QUALIFYING EXPENDITURE

Types of qualifying expenditure

4.1 Qualifying expenditure is expenditure on any project that is designed to generate ongoing revenue savings in the delivery of public services and/or transform service delivery to reduce costs and/or transform service delivery in a way that reduces costs or demand for services in future years for any of the public sector delivery partners. Within this definition, it is for individual local authorities to decide whether or not a project qualifies for the flexibility.

4.2 Set up and implementation costs of any new processes or arrangements can be classified as qualifying expenditure. The ongoing revenue costs of the new processes or arrangements cannot be classified as qualifying expenditure. In addition, one off costs, such as banking savings against temporary increases in costs/pay cannot be classified as qualifying expenditure.

Examples of qualifying expenditure

4.3 There are a wide range of projects that could generate qualifying expenditure and the list below is not prescriptive. Examples of projects include:

- Sharing back-office and administrative services with one or more other council or public sector bodies;
- Investment in service reform feasibility work, e.g. setting up pilot schemes;
- Collaboration between local authorities and central government departments to free up land for economic use;
- Funding the cost of service reconfiguration, restructuring or rationalisation (staff or non-staff), where this leads to ongoing efficiency savings or service transformation;
- Sharing Chief-Executives, management teams or staffing structures;
- Driving a digital approach to the delivery of more efficient public services and how the public interacts with constituent authorities where possible;
- Aggregating procurement on common goods and services where possible, either as part of local arrangements or using Crown Commercial Services or regional procurement hubs or Professional Buying Organisations;
- Improving systems and processes to tackle fraud and corruption in line with the Local Government Fraud and Corruption Strategy – this could include an element of staff training;
- Setting up commercial or alternative delivery models to deliver services more efficiently and bring in revenue (for example, through selling services to others); and
- Integrating public facing services across two or more public sector bodies (for example children's social care, trading standards) to generate savings or to transform service delivery.



Name of meeting: Cabinet
Date: 2nd May 2017
Title of report: Update of the Council's Estate Management Policy for non-operational land and buildings

Purpose of report:

The report sets out the proposals to update the Council's current Estate Management Policy for the non-operational land and property portfolio which was previously approved by the Education and Peoples Service Cabinet Committee on 22nd March 2006

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes – the decision will have a significant effect on all wards.
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Key Decision – Yes Private Report/Private Appendix – No
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Director</u> & name	Joanne Bartholomew, Service Director for Commercial, Regulatory and Operational Services, 20 April 2017
Is it also signed off by the Service Director for Finance, Professional and Transactional Services?	Debbie Hogg, 19 April 2017
Is it also signed off by the Service Director for Governance and Commissioning Support?	Julie Muscroft, 19 April 2017
Cabinet member portfolio	Asset Strategy, Resources & Creative Kirklees (Arts)– Cllr Graham Turner

Electoral wards affected: All
Ward councillors consulted: All ward councillors were sent a copy of the report and updated policies for information on 24th March 2017
Public or private: Public

1. Summary

- 1.1 It is considered good practice for local authority's to publish policies relating to the management and disposal of non-operational land and property assets for the benefit of elected members, officers, members of the public and all other stakeholders.

1.2 The current Estate Management Policy dates from 2006 and is in need of update to reflect current practices and the significant financial constraints facing the Council.

2. Information required to take a decision

2.1 The current policy comprises a single document which covers:-

- Sale of land and property
- Commercial portfolio
- Non-commercial portfolio
- Agricultural land and buildings
- Letting to community groups and voluntary organisations
- General issues

The updated policy has been split into two separate documents – the Corporate Estate Management Policy and the Corporate Disposals and Acquisitions Policy to reflect the increased importance of land and property to the Council's overall asset strategy. Both new policies will operate alongside the Asset Transfer Policy.

Corporate Estate Management Policy (CEMP)

2.2 This policy document covers the Council's non-operational land and property holdings comprising the commercial estate portfolio (shops, offices, industrial property and ground rents etc.), the non-commercial portfolio (garage sites, garden land, grazing land etc.) and agricultural land and buildings.

The Commercial Estate

2.3 The Council's commercial portfolio comprises, on average, of 493 individual lettings generating an annual income of approximately £2.2 million. The estate is managed on a commercial basis having regard to prudent commercial practices. With current pressures on the corporate revenue budgets it is becoming increasingly important to keep the commercial estate under review to ensure that investments remain viable and to identify disposal or alternative opportunities for underperforming assets.

Non-commercial portfolio

2.4 The current policy recognised that there is a community benefit from the use of Council land for domestic garage and garden purposes. Due to the high costs of management when compared to the overall income produced, it is no longer considered to be a sustainable form of business. On this basis Cabinet on 16th December 2014 agreed to withdraw from the management of non-essential portfolios. Accordingly, the new policy will be to no longer offer new lettings for these uses on Council owned land except where there is a change of owner or it is necessary to protect the long term interests of the Council.

2.5 Existing tenancies will be reviewed and those which are considered suitable for development will be terminated without compensation and the sites brought forward for disposal. Sites which are not required for strategic retention or are unsuitable for development may be subject to disposal as going concerns (i.e. subject to the existing tenancies) with appropriate covenants to protect the long term use.

Agricultural land and property

- 2.6 The Council will support the disposal of all non-strategic agricultural holdings to sitting tenants in the first instance or on the open market. For those holdings which are to be strategically retained the Council will seek to negotiate mutually beneficial changes to existing tenancies including rent reviews where cost effective to do so. Changes to the terms under which holdings are occupied can only be agreed mutually as the tenant has an element of statutory protection regarding their existing terms of occupancy.

Corporate Disposals and Acquisitions Policy (CDAP)

- 2.7 Disposal of land and property is a key element in meeting the Council's financial targets e.g. capital receipts and revenue savings whilst also complementing the Council's economic resilience policy and asset strategy. Disposals can also bring social, community and environmental benefits to local areas.

Statutory Background

- 2.8 Members will be aware of the Council's statutory duty to obtain best consideration when disposing of land and property assets. Best consideration generally means the best price obtainable where the principle aim is to maximise the value of the receipt. Consideration however is not limited to the purchase price; it may also include disposal terms which have an identifiable commercial value to the Council.
- 2.9 The Local Government Act 1972 General Disposal Consent (England) 2003 allows the Council to dispose of any interest in land and property held under the Local Government Act 1972 which it considers will contribute to the promotion or improvement of the economic, social or environmental wellbeing of the area at less than best consideration, providing the undervalue does not exceed £2m. For proposed transactions where the 'undervalue' will exceed the £2m threshold specific consent from the Secretary of State will be required.
- 2.10 It should be noted that the Council's power to sell at less than best consideration is subject to the European Commission Communication on State Aid elements in sales of land and buildings by public authorities – also known as the 'State Aid Rules'.
- 2.11 Disposals undertaken through the Council's Asset Transfer scheme will generally be at less than best consideration utilising the General Disposal Consent.
- 2.12 Further statutory procedures exist in relation to the proposed disposal of certain categories of land and property e.g. public open space, land used for school playing fields and former school buildings.
- 2.13 Land and property which is owned by the Council as charitable trustee is excluded from the policy. All disposals of charity land and property are subject to the provisions of the Charities Act 2011.

Methods of disposal

- 2.14 As a general rule, all land and property released for disposal will be fully marketed. Methods of disposal will include public auction, formal tender and informal (or negotiated) tender. The method of disposal adopted in each case will depend on the individual property characteristics and the prevailing market conditions.

- 2.15 The Council may from time to time, dispose of land 'off market' by private treaty to special and nominated purchasers. A special purchaser is one to whom a particular asset has special value because of advantages arising from its ownership that would not be available to general purchasers in the open market. Such 'special purchasers' will include adjoining owners and parties with an interest in the property where a disposal will release additional, or marriage value, to be shared with the Council. Disposals to nominated purchasers will be considered by the Council where this meets an identified regeneration, social or community need. All disposals to nominated purchasers will be subject to an independent external valuation to determine best consideration.

Disposal and planning permission

- 2.16 As a general principle, and in order to support the Council in the discharge of its statutory planning function, the Council's policy will be that disposals will not normally be completed until planning permission (if required) is obtained. The Council will also not be obliged to complete a disposal where an appeal has been lodged against a decision of the Local Planning Authority (LPA). This is particularly relevant to disposals involving significant or sensitive developments and where the Council wishes to secure additional regeneration benefits from the proposed development.
- 2.17 Prior to the marketing of land and property, the Council may seek planning permissions for alternative uses where this will help maximise the value of the asset and where it is cost effective to do so.

Disposal terms

- 2.18 Wherever possible, the Council will endeavour to keep land and property disposals simple and cost effective for both parties to deliver early completions. For certain disposals, it will be necessary for the Council to impose terms which are considered necessary to protect the Council's interests. Such terms may include overage and clawback and development obligations. This is particularly relevant for disposals to nominated purchasers and where the principal aim of the disposal is to deliver regeneration benefits from a particular scheme.

Acquisitions by the Council

- 2.19 Occasionally, the Council will acquire land and property in order to meet an identified operational or strategic need e.g. transportation and regeneration. The Council will acquire land or property from the open market or privately having regard to normal and prudent commercial practices.
- 2.20 Where the Council proposes to make a compulsory purchase order (CPO) it will attempt to acquire the necessary interests by agreement in the first instance having regard to the methods and procedures for assessing the correct amount of compensation commonly known as the "Compensation Code".

General Issues

Consultation with Local Ward Members

- 2.21 The policies will provide for Local Ward Members to be consulted in the following circumstances:-
- Before disposing of land or property
 - As part of the process for advertising the disposal of 'public open space'
 - Before submitting planning applications on Council owned land

- Before a report goes to Cabinet or Cabinet Committee – Assets on land and property within their Ward

Where Local Ward Members are to be consulted, they will be given at least 10 working days to respond and all comments whether in support or objection to the proposal will be included in the report to the decision making body.

Commissioning

2.22 The Council may, from time to time, commission external consultants in connection with the disposal and acquisition of land and property. Consultants will be procured in accordance contract and financial procedure rules and where appropriate the Council will use Kirklees based consultants in addition to utilising national and regional frameworks. The Council will ensure that the external consultants will possess the necessary professional and technical qualifications and experience.

Fee Recovery

2.23 The policies will provide for the Council to recover its legal, surveying and administrative costs incurred in dealing with all matters. In respect of disposal costs, these have been benchmarked against the level of costs being recovered by other local authorities. For other fees and costs, recent case law has confirmed the point that landlords should not profit from a process where consents are requested. The fee schedules are included in the appendices to the policy documents and are proposed to be reviewed on an annual basis.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

There will be no impact

3.2 Economic Resilience (ER)

The implementation of the Corporate Estate Management and Disposals and Acquisitions Policies will support ER through the release of land and property assets to the business community as opportunities for economic use, investment and development.

3.3 Improving outcomes for Children

There will be no impact

3.4 Reducing demand of services

Effective management of the non-operational portfolio and the disposal of surplus land and property will help reduce pressures on the Corporate Landlord and other service budgets.

3.5 Financial & Legal Implications

No additional implications, other than those outlined in Section 2.

4. Consultees and their opinions

- 4.1 The revised policies were considered by the Council's Asset Liaison Group on 16th February and their comments have been incorporated.
- 4.2 Ward Councillors were sent a copy of the report and updated policies for two weeks consultation on Friday 24th March 2017.

The following responses were received:

Cllr Eric Firth – “what happens to all our playing fields used by sports clubs?”

Comment: The playing fields are outside the scope of this policy as they are covered through the Playing Pitch Strategy that has been collated by Martin Gonzalez who is a Development Manager for Sport & Physical Activity team in the Communities Transformation and Change department.

Cllr Darren O'Donovan - All looks ok.

The only thing to mention / add is it would be helpful to ward members if we had a direct way to bring forward assets or sites for disposal. If we could offer our ward priorities for disposal to then allow sale or auction as swiftly as possible.

Comment: In terms of the bringing sites to our attention for disposal, we have already taken note from the previous disposal consultation meetings that were held before Christmas with members, including yourself, and have incorporated sites in line with corporate priorities where possible. Further to that Portfolio Holder Cllr Turner (Asset Strategy, Resources & Creative (Arts), with the Asset Committee and Officers, are planning ward reviews following the conclusion of the Local Plan later in the summer. This will provide another opportunity to discuss ward assets and highlight ward issues for Members.

5. Next steps

- 5.1 Following Cabinet approval, the updated policies will be published on the Council's website and will be implemented with immediate effect.

6. Officer recommendations and reasons

- 6.1 Cabinet are recommended to approve the replacement of the current Estate Management Policy with the Corporate Estate Management Policy (Appendix 1) and the Corporate Disposals & Acquisitions Policy (Appendix 2) and to authorise their implementation with immediate effect.

7. Cabinet portfolio holder's recommendations

- 7.1 Cabinet are recommended to approve the replacement of the Estate Management Policy with the Corporate Estate Management Policy (Appendix 1) and the Corporate Disposals & Acquisitions Policy (Appendix 2) and to authorise their implementation with immediate effect.

8. Contact officer

Joe Tingle - joe.tingle@kirklees.gov.uk - (01484) 221000

9. Background Papers and History of Decisions

- Estate Management Policy for the non-operational land and property portfolio as approved by the Education and People's Service Cabinet Committee on 22nd March 2006.
- Report to Cabinet 16th December 2014 - Disposal of surplus land and property assets.
- Asset Transfer Policy, as approved at Assets Cabinet Committee on 7 March 2017.

10. Service Director responsible

Paul Kemp – Service Director for Economy, Strategy and Culture



CORPORATE ESTATE MANAGEMENT POLICY

Corporate Landlord

Economy, Regeneration & Culture

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INTRODUCTION

Kirklees Council owns an extensive non –operational land and property portfolio and recognises that through efficient and effective management, this valuable resource can support the Council's priorities by:-

- Complementing the Asset Strategy
- Supporting the Capital Plan
- Supporting corporate resilience
- Providing business and development opportunities
- Generating Revenue Income

The Service Director - Economy Regeneration and Culture has overall responsibility for management of the portfolio and the Estate Management Policy sets out how this will be achieved.

Whilst the primary focus of this document is to provide key policy guidance for officers, elected members, businesses and the general public, it is important to note that each individual case should be treated on its own merits and nothing in this document binds the Council into any particular course of action when dealing with the portfolio.

1. THE COMMERCIAL PORTFOLIO

The Commercial Portfolio consists of approximately 493 individual interests. These include shops, offices, industrial units, other properties and ground leases, and are let on commercial terms to produce revenue income to support the Council's budget.

OVERALL PORTFOLIO MANAGEMENT

Portfolio Review and Disposals

The commercial portfolio will be subject to continued review to ensure investments remain viable and to identify disposal or alternative opportunities for underperforming assets.

In addition to continual review process, decisions on disposal may be determined:

- When a tenant serves notice to quit and the likelihood of re-letting is limited
- When there is no increase on a rent review or lease renewal

Assets identified for disposal will be sold in line with the Acquisitions and Disposal Policy.

Planned Maintenance and Refurbishment

Planned maintenance and refurbishment will be carried out following portfolio review/condition surveys. Where appropriate, expenditure will to be recouped from tenant(s) via service charge provisions.

Funding

Planned maintenance/repair is funded from the Commercial Estate Trading Account (if the value is under £10,000) or the Facilities Management Service Capital budget (if over £10,000).

Capital receipts from the Commercial Portfolio will not be ring fenced for reinvestment but will support the Corporate Capital Receipts 5 year rolling target (2015/16) onwards.

Bids for substantial capital investment to fund procurement or wider developments of the commercial portfolio will be subject to a detailed business case to be considered via the approved Capital Delivery Board process.

GENERAL PROPERTY MANAGEMENT

Marketing

The marketing strategy for vacant properties will concentrate on the use of appropriate incentives to reflect prevailing market conditions.

New commercial lettings will generally be on a competitive basis, the final decision on which applicant to accept will be based on the proposed rent, the most suitable use, the tenants financial standing and the level of investment by the tenant.

New tenants (including assignees) must provide appropriate proof of identification and suitable references.

Where the new tenant is an individual or a limited company without an acceptable trading history a guarantor may be required. Where the new tenant does not provide an acceptable trading history or satisfactory references advance payment of rent may be required.

Tenants will not be allowed to occupy properties until agreements have been completed.

General lease terms

Legislation

Commercial tenants will normally have the right to renew their tenancy in accordance with the provisions of the Landlord and Tenant Act 1954. The Council retains the right to contract any lease out of these provisions if it is necessary.

Rents

Full market rents will be charged taking into account the proposed or agreed lease terms.

Repairs

The Council will negotiate full repairing terms wherever possible, which pass the full costs of property maintenance, repairs and other management to the tenant.

In multi occupied properties, the Council will use a service charge to recover all maintenance, repair, compliance with legislation and other management costs relating to the property. It may also incorporate a sinking fund to enable larger elements of repair and maintenance to be funded.

For existing tenancies, the Council will seek to negotiate full repairing terms wherever possible.

Insurance

All new lettings will be on full insuring terms, which pass the costs of insurance onto the tenant. On existing tenancies the Council will seek to negotiate full insuring terms wherever possible.

Properties which are insured by the tenant must be insured on a basis which is agreed by the Council's Insurance and Risk Management Section.

Where insurance is provided by the Council the premium will be recharged to the tenant.

The tenant to have appropriate public indemnity insurance.

Rent Review/Lease Renewal

Rent review provisions will generally allow for the review of rent every five years, on an upwards only basis. On lease renewal tenancies may be allowed to hold over if it is deemed uneconomic to review the rent.

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Use

The Council will adopt good estate management and commercial practices to restrict use where necessary to achieve an acceptable mix and ensure sustainability of businesses.

Alienation (assignment and subletting)

Agreements can generally be assigned unless there are good estate management reasons for imposing restrictions.

Sub-letting of the whole or any part of a property will be prohibited unless there are good estate management reasons to do so.

Dilapidations

The Council will generally inspect a tenanted property when the tenant vacates (at lease expiry, surrender or assignment) in order to ensure the property is in a good state of repair in accordance with the terms of the lease/tenancy agreement.

If necessary a Schedule of Dilapidations will be served on the tenant.

The tenant will also be required to demonstrate legislative compliance for the demise (such as asbestos management, gas, electricity, glass etc.)

Consents

The Council's consent will generally be required for alterations/additions; the tenant will be responsible for satisfying statutory requirements such as building control, planning etc.

2. THE NON – COMMERCIAL PORTFOLIO

The non-commercial portfolio consists of a large number of garage sites, gardens, grazing land and long term ground leases.

Garage sites and Garden tenancies

The Council will not grant any new agreements to erect garages on Council owned land or use Council land for garden purposes, other than in the following circumstances:-

- Where it is necessary to protect the long term (strategic) interests of the Council.
- Where there is a change of owner of either the garage or dwelling house.

Any new agreements will be at full market rents taking into account the proposed terms of the agreement.

The Council will continually review all garage sites and garden tenancies to identify those with potential for development. Where housing or commercial development is possible the Council will secure vacant possession of the site via appropriate notices being served.

Licensees and tenants will be required to remove garages and any other structures in accordance with the terms of the agreements. No compensation or other payment will be made, these sites will be disposed of in accordance with the Acquisitions and Disposals Policy or retained in the interim until strategically required for release.

Sites which are not required for strategic retention or are unsuitable for development may be subject to disposal as going concerns (ie subject to the existing agreements) but may be subject to appropriate covenants protecting their long term use.

Grazing Land

The Council will only grant new grazing licences on Council owned land if it is identified as having strategic or operational benefits to the Council. In such cases, the land will be re-let on the open market, if it becomes available. The Council will dispose of all remaining grazing land in accordance with the Acquisitions and Disposals Policy.

Long term ground leases (999 & 2000 years)

The Council will continue to manage these interests in line with the clauses within the leases by invoicing the rent, dealing with registrations, assignments and legal charges and providing consent where necessary. The Council will charge a fee for carrying out these management tasks in accordance with the schedule of fees in Appendix 1.

Requests to purchase the freehold reversions of these leases will be dealt with on a case by case basis in line with the Councils Acquisitions and Disposal Policy.

3. AGRICULTURAL LAND AND BUILDINGS

The Council will support the disposal of all non- strategic holdings to sitting tenants. In the event of the tenant declining the property will be offered on the open market as an investment opportunity.

For those holdings which are to be strategically retained the Council will seek to negotiate mutually beneficial changes to existing tenancies. Changes to the terms under which holdings are occupied can only be agreed mutually as the tenant has an element of statutory protection regarding their existing terms of occupancy.

The Council will implement rent reviews on existing holdings when considered cost effective to do so in accordance with tenancy agreements and relevant legislation.

4. MISCELLANEOUS ASSETS AND LIABILITIES

The Council owns land and property assets which do not form part of the let estate e.g. heritage assets, woodland areas, embankments, bridges and cuttings etc.

For those assets which are not strategically required the Council will consider appropriate proposal for disposal or asset transfer.

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5. LAND BANK

The Land Bank is managed by the Head of Corporate Landlord for the overall benefit of the Council. Any land and property declared surplus by Services or following review, is subsequently managed, maintained and made secure through the Land Bank.

Land or property held in the land bank will be held for ultimate disposal (freehold, or by lease), asset transfer, demolition or lease as a temporary measure. Guardians may also be installed as opposed to employing a security firm.

6. TEMPORARY USE OF COUNCIL LAND AND PROPERTY

Subject to the merits of individual cases, the Council may permit temporary use of its land and property. In all cases, the use will be subject to:-

- Completion of a licence agreement.
- Payment of a licence fee (where appropriate) in accordance with the approved schedule in Appendix 1.
- Provision of risk assessment and method statements for the proposed use, if considered appropriate.
- A land management plan (where appropriate.)
- Evidence of public liability indemnity insurance to a minimum value of £5 million, or other value as required by the Council's Risk and Insurance officer.
- Where appropriate, a bond to cover the costs of reinstatement of the land and/or property.

7. GENERAL ISSUES

Decision-making process

The Estates Management Policy will be used as the basis for decision-making by Physical Resources and Procurement when operating the Delegation Scheme (Appendix 2) as amended and reissued from time to time. It will also be used as the basis for recommendations to Cabinet or Cabinet Committee - Assets where an Executive decision is required.

Value Added Tax (VAT)

The Council will elect to waive its exemption (opt to tax) on the disposal of land and property assets where the Council wishes to recover previously incurred input tax. The decision whether to opt to tax or not will be jointly made by the Service Directors responsible for (Physical Resources and Procurement) and Resources.

VAT will be payable on the disposal and letting of land used for car parking (including garages) and on rents, service charges and other charges where the Council has previously 'opted to tax'.

Debt Recovery

The Council will adopt good estate management and commercial practices for managing arrears of rent which may include individual payment plans, if such agreed payment plans are not met the Council will reserve the right to take the necessary legal action to forfeit the lease and recover possession of the property. The Council will reserve the right to charge interest on arrears where the lease permits.

Consultation

Local ward members will be consulted in the following circumstances:-

- As part of the process for advertising the disposal of 'public open space'
- Before a report goes to Cabinet on land and property within their Ward

Where local ward members are to be consulted, they will be given at least 10 working days to respond and all comments whether in support or objection to the proposal will be included in the report to the decision making body.

Fee Recovery

Where appropriate, the Council will seek to recover from third parties, its reasonable legal, surveying and administrative costs incurred in dealing with all matters involving the non-operational portfolio. The fee recovery will be on the basis of the approved schedule of fees listed in Appendix 1.

Initial enquiries about the Council's land and property ownership will be provided at no cost.

Commissioning

The Council may, from time to time, commission external consultants in connection with the disposal and acquisition of land and property. The Council will procure consultants in accordance with its contract and financial procedure rules and where appropriate will use Kirklees based consultants in addition to utilising national and regional frameworks. The Council will ensure that the external consultants will possess the necessary professional and technical qualifications and experience.

APPENDICIES

APPENDIX 1 – SCHEDULES OF FEES

APPENDIX 2 – GLOSSARY OF TERMS

APPENDIX 3 - DELEGATION SCHEME – To be updated as necessary

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APPENDIX 1 - SCHEDULE OF FEES

Schedule of fees to be recovered from third parties including legal, surveyor's and administrative / consent fees.

Management Task	Fees
<u>Commercial</u>	
New Letting	£500
Deed of Assignment	£750
Lease Renewal	£500
Landlords Consent	£500
Deed of Variation or Surrender	£550
Licence for site compound	£150 per week
Site licence	£250
<u>Non - Commercial</u>	
New Tenancies (garden, garage, grazing)	£50
Registration Fees (residential)	£50
Registration Fees (commercial)	£75
Landlords Consent (residential)	£75
Copy leases (up to A3 size)	£25
Certified leases (up to A3 size)	£50
Copy leases (larger than A3)	£50
Certified leases (larger than A3)	£100

*All fees exclusive of Value Added Tax and disbursements
All fees will be reviewed on an annual basis


APPENDIX 2 - GLOSSARY OF TERMS

Assignment	The legal transfer of a land or property lease from the existing tenant to a new tenant
Capital Plan	The Council's plan for capital expenditure over a period of one to three years.
Contract Out	The legal process by which a landlord and tenant voluntarily agree to waive the security tenure provisions afforded to a tenant by the Landlord and Tenant Act 1954. This effectively removes the tenant's statutory right to renew a commercial lease at the expiry of the lease term.
Full Market Value	The rent for which a property or land would let for on the date of letting and between a willing lessor and lessee on appropriate terms
Landlord and Tenant Act 1954	Provides security of tenure for tenants and entitles them, in most cases, to obtain new tenancies.
Opt to Tax	'Opt-to-tax' is a mechanism which enables to Council to recover VAT on expenditure relating to a property transaction (input tax; usually when there has been major expenditure on which a large amount of VAT has already been paid out) that would otherwise be irrecoverable. This can have significant positive effects on the Council's overall financial position.
Schedule of Dilapidations	A notice served on a tenant who has failed to keep a property in repair in accordance with the terms of the lease. The notice will usually be served prior to the end of the tenant's occupation and must outline the area(s) of disrepair, the steps required and time in which to remedy the situation and the relevant clauses of the lease.

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KIRKLEES COUNCIL
DIRECTORATE FOR PLACE
RECORD OF POWERS DELEGATED BY THE DIRECTOR FOR PLACE
(Corporate Landlord Scheme)

DATE: 6 December 2016

<i>Date last reviewed</i>	<i>December 2016</i>
<i>Approved by Signature</i>	
<i>Date Approved</i>	<i>December 2016</i>
<i>Version No.</i>	<i>1.2</i>
<i>Review Date</i>	<i>December 2016</i>
<i>Directorate contact officer</i>	<i>Joe Tingle</i>

DIRECTORATE FOR PLACE

DELEGATED POWERS

Purpose:

To set out the delegations from the Assistant Director, Place in accordance with the requirements of paragraph 6 of Part 3 Section F of the Council's Constitution.

Related Policies & Documents

- Council Constitution (Part 2: Article 13: Decision Making) - <http://www.kirklees.gov.uk/you-kmc/constitution/articles/art13.pdf>
- Council Constitution (Part 3: Responsibility for Functions) - <http://www.kirklees.gov.uk/you-kmc/constitution/ConstitPart3.pdf>
- Council Constitution (Part 4.6: Financial Rules & Procedures – <http://www.kirklees.gov.uk/you-kmc/yourCouncil/pdf/constitutionPart46.pdf>

Key Statutes/Legislation

Legislation applied in the delegated decisions specified in this document includes the following:

Academies Act 2010	Landlord and Tenant Act 1927
Access to Neighbouring Land Act 1992	Landlord and Tenant Act 1954
Acquisition of Land Act 1981	Landlord and Tenant Act 1988
Agriculture Holdings Act 1986	Law of Property Act 1925
Agricultural Tenancies Act 1995	Leasehold Reform Act 1967
Civil Procedure Act 1997	Leasehold Reform, Housing and Urban Development Act 1993
Common Law Procedure Act 1852	Local Government Act 1972
Commons Act 2006	Local Government Act 2000
Commons Registration Act 1965	Local Government (Miscellaneous Provisions) Act 1976
Counter Terrorism and Security Act 2015	Open Spaces Act 1906
Crime and Disorder Act 1988	Planning (Listed Buildings & Conservation Areas) Act 1990
Criminal Law Act 1977	Road Traffic Regulation Act 1984
Education Act 1996	School Standards and Framework Act 1998
Highways Act 1980	Town and Country Planning Act 1990
Housing Act 1985	Tribunals, Courts and Enforcement Act 2007
Land Compensation Act 1973	

AND all secondary legislation enacted thereunder

Who is governed by this policy?

The scheme of delegations will apply to all permanent, contract and temporary officers working for the Council.

Summary

The Council's Constitution requires that each Director will prepare service schemes of delegation which set out how decisions will be made in each of the Services for which they are responsible. Such schemes should clearly identify which officers have been authorised to make decisions under the delegated powers of the Director. All schemes of delegation will be lodged with the Council's Monitoring Officer and made available to the public on request.

Officers may only exercise the powers delegated to them in accordance with all relevant statutory requirements, the provisions of the Council's Constitution, the revenue and capital budgets of the Council, its Procurement Code, Financial Regulations and other relevant policies and procedures.

Delegation is simply a way of allocating matters to the levels appropriate to ensure that the Directorate's business is dealt with in the most efficient way possible. Delegated power will normally be exercised at the lowest level to which it has been given. However, all such powers will also be held by the Director.

Where an officer post to which any function has been delegated is renamed or is affected by a staffing reorganisation, then the relevant delegation shall be treated as applying to the renamed post or, as appropriate, to the post which has been allocated the same or substantially the same relevant duties as the original post following that reorganisation.

In exercising the powers delegated to them officers must observe any additional procedural requirements that apply within their services e.g. any requirement to consult local ward councillors, cabinet members and/or the leader. It is also good practice to keep local ward councillors informed of decisions made and implemented under delegated powers that significantly affect members of the community in their ward.

Scheme of Delegation & Decision Making (Corporate Landlord)

Responsibility	Officer A	Officer B	Operational Manager	Senior Manager	Assistant Director
APPROPRIATION OF LAND					
LOCAL GOVERNMENT ACT 1972					
Authority to appropriate land Section 122 - Local Government Act 1972 Section 19 – Housing Act 1985 Town & Country Planning Act 1990 – Section 229 & Section 232	✓	✓	✓	✓	✓
Authority to instruct the Assistant Director – Legal, Governance & Monitoring to advertise the proposed appropriation of Public Open Space or Common Land Section 122	✓	✓	✓	✓	✓
DEDICATION OF LAND					
HIGHWAYS ACT 1980					
Authority to instruct the Assistant Director – Legal, Governance & Monitoring in connection with dedication of land as public highway	✓	✓	✓	✓	✓
OWNERSHIP INFORMATION					
LOCAL GOVERNMENT (MISCELLANEOUS) PROVISIONS ACT 1976					
Authority to issue notices requiring information as to interest in land Section 16	✓	✓	✓	✓	✓
TOWN & COUNTRY PLANNING ACT 1990					
Authority to issue notices requiring information as to interests in land Section 330	✓	✓	✓	✓	✓
HIGHWAYS ACT 1980					
Authority to issue notices requiring information as to ownership of land Section 297	✓	✓	✓	✓	✓
DISPOSAL OF LAND & PROPERTY					
Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring concerning disposals of all land, property & rights up to the value of £500,000, subject to terms over £250,000 being noted in the Forward Plan.			✓	✓	✓
PUBLIC OR QUASI OPEN SPACE, COMMON LAND OR VILLAGE GREENS					

Scheme of Delegation & Decision Making (Corporate Landlord)

Responsibility	Officer A	Officer B	Operational Manager	Senior Manager	Assistant Director
Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring to advertise the proposed disposal of Public or quasi Open Space, Common Land or Village Greens subject to no objections from members of the public.	✓	✓	✓	✓	✓
ACQUISITION OF LAND & PROPERTY					
Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring concerning the acquisition of all land, property & rights by agreement or compulsory purchase on behalf of the Council up to the value of £500,000, subject to terms over £250,000 being noted in the Forward Plan			✓	✓	✓
COMPENSATION					
Authority to determine, negotiate terms & instruct the Assistant Director – Legal, Governance & Monitoring concerning compensation payments on behalf of the Council up to the value of £500,000, subject to terms over £250,000 being noted in the Forward Plan			✓	✓	✓
RIGHT TO BUY					
Housing Act 1985 – Part V					
Authority to determine Right to Buy applications & discount. Authority to serve Notices in connection with the process. Authority to instruct the surveyor to value the properties. Authority to instruct the District Valuer in connection with determination & redetermination of value. Authority to serve Notices admitting or denying the Right to Buy. Authority to instruct the Assistant Director – Legal, Governance & Monitoring to conclude the disposal of the property.	✓	✓	✓	✓	✓
Authority to appear as a witness at First-tier Tribunal Property Chamber (Residential Property) to represent the Council’s case (whether written representations or oral hearing)			✓	✓	✓
Authority in conjunction with the Head of Housing Services to determine whether the Council should exercise its discretion with regard to the repayment of discount	✓	✓	✓	✓	✓
PLANNING APPLICATIONS					

Scheme of Delegation & Decision Making (Corporate Landlord)

Responsibility	Officer A	Officer B	Operational Manager	Senior Manager	Assistant Director
Authority to make applications for planning permission on Council land	✓	✓	✓	✓	✓
NOTICE TO QUIT					
Authority to sign and serve all Notices to Quit and all Notices under the Landlord and Tenant Act 1954.	✓	✓	✓	✓	✓
LETTING OF LAND & PROPERTY					
Authority to approve applications for the assignment of leases	✓	✓	✓	✓	✓
Authority to authorise formal Deeds of Apportionment of ground rents of leasehold properties	✓	✓	✓	✓	✓
Authority to negotiate terms for & sign standard forms of agreement in respect of site compounds, site licences, licences, wayleaves, rights of way, privileges & tenancies (not including tenancies in respect of Council Houses)	✓	✓	✓	✓	✓
Authority to give landlords consent in respect of long leases, where the long term interests of the Council are not prejudiced	✓	✓	✓	✓	✓
Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring to complete the letting of all commercial land and property.			✓	✓	✓
Authority to serve necessary Notices, negotiate rent reviews & in Leases & to authorise the Memorandum of Rent review			✓	✓	✓
Authority to instruct a third party in accordance with the Arbitration Acts where necessary to determine the rent review		✓	✓	✓	✓
Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring to complete lease renewals.			✓	✓	✓
Authority to approve changes of use, extension to user clauses or variations to covenants within Leases & instruct the Assistant Director – Legal, Governance & Monitoring to complete the documentation			✓	✓	✓
Authority to negotiate the surrender of Leases & instruct the Assistant Director – Legal, Governance & Monitoring to complete the documentation			✓	✓	✓
Authority to institute proceedings for & where necessary instruct the Assistant Director – Legal Governance & Monitoring take the necessary action to recover rent or other monies due to the Council under the provisions of tenancies or leases		✓	✓	✓	✓

Scheme of Delegation & Decision Making (Corporate Landlord)

Responsibility	Officer A	Officer B	Operational Manager	Senior Manager	Assistant Director
including the power of distraint, forfeiture and suing on the personal covenant					
EASEMENTS					
Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring to grant or take easements whether for a term of years or in perpetuity.			✓	✓	✓
LANDS TRIBUNAL CASES/COURT APPEARANCES					
Authority to present the Council's case (whether written representations, at informal hearing or public inquiry)		✓	✓	✓	✓
TRESPASSERS/SQUATTERS					
LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012					
Authority to instruct the Assistant Director – Legal, Governance & Monitoring to recover possession of squatters from a residential buildings		✓	✓	✓	✓
CIVIL PROCEDURE ACT 1997					
Authority to instruct the Assistant Director – Legal Governance & Monitoring to regain/obtain possession of any land or premises, owned, leased or occupied by the Council which are occupied without the consent of the Council.		✓	✓	✓	✓
Authority to determine the scale of fees & charges relating to costs for administration & valuation work			✓	✓	✓
COMMUNITY RIGHT TO BID					
To determine procedures from time to time and comply with Section 87-108 of the Localism Act 2011 and the non-statutory guidance and the Assets of Community Value (England) Regulations 2012.				✓	✓
To consider the validity of the applications and to determine whether they are successful or not and inform all relevant bodies of the decision		✓	✓	✓	✓
Consider and determine valid request for listing review from owners.			✓	✓	✓
Consider valid applications for compensation for loss and expense incurred through the asset being listed or previously listed and to agree payment of compensation to affected owner/former owners.				✓	✓
To consider and determine valid applications from owner or former owners of land				✓	✓

Scheme of Delegation & Decision Making (Corporate Landlord)

Responsibility	Officer A	Officer B	Operational Manager	Senior Manager	Assistant Director
listed as an ACV for a review as to whether compensation should be made; and the amount of compensation and to give reasons for the review decision.					
To approve application of register and removal of local land charges and enter into restrictions on title at HM Land Registry for registered land to prevent disposal by the owner in breach of the regulations.				✓	✓
TERRORISM/EMERGENCY PLANNING - PREVENT					
To take all necessary steps to deal with an emergency in accordance with the Kirklees Emergency Plan and the Physical Resources & Procurement Service Business Continuity Plan.				✓	✓

Additional delegation approved by Cabinet 2016:

Implications of school category changes for land and premises – an extension of delegation to senior officers to dispose of Council assets.				✓	✓
That approval is given to the delegation of powers to the Assistant Directors Place and Assistant Director Legal and Governance to deal with the disposal of Council assets either as a result of school expansion, historic or otherwise and also when a school changes category.					

Underpinning all activity:

Terrorism/Emergency Planning – Prevent:

To ensure the Council's policies, procedures and resources in the leasing/letting[disposal] of property have due regard to 'Prevent' duty under s26 of the Counter Terrorism and Security Act 2015 and Home Office Guidance to prevent people being drawn into terrorism [and that Contractors support the Council to discharge the 'Prevent duty'].

Scheme of Delegation & Decision Making (Corporate Landlord)

Key to roles:

Responsibility	Post Title, Section
*Assistant Directors, Place	*This delegation applies to all Assistant Directors in the Place Directorate
**Senior Managers (Grade 17-19)	Head of Corporate Landlord Capital Development and Capital Delivery Schools Facilities Manager Head of Building Services
Operational Managers (Grade 13 -16)	Asset Strategy Officer Disposal and Acquisition Team leader
Officer A	Asset Management Officer (Land) Right to Buy Officer Disposal and Acquisition Officers
Officer B	Corporate Facilities Manager Asset Strategy Officer Disposal and Acquisition Surveyor

** Records of all delegations taken 'of significant public interest' will include the designated post holder taking the decision.

* The Scheme of Delegation will be reviewed periodically to take account of organisational change



CORPORATE DISPOSALS AND ACQUISITIONS POLICY

Corporate Landlord
Economy, Regeneration & Culture
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INTRODUCTION

Kirklees Council owns an extensive land and property portfolio and recognises that through efficient and effective management and disposal, this valuable resource can support the Council's priorities by:-

- Supporting the Capital Plan
- Complementing the Asset Strategy
- Complementing the Councils economic resilience policy
- Providing social, community and environmental benefits

The Service Director – Economy, Regeneration & Culture has overall responsibility for disposal and acquisition of Council land and property assets and the Disposals and Acquisition Policy sets out how this will be achieved.

Whilst the primary focus of this document is to provide key policy guidance for officers, elected members, businesses and the general public, it is important to note that each individual case should be treated on its own merits and nothing in this document binds the Council into any particular course of action when dealing with the portfolio.

Date of document 3 March 2017 v4.0

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1. GENERAL PRINCIPLES FOR DISPOSALS

The Council will dispose of land and property assets on the following key principles:-

- The disposal does not prejudice the longer term interests of the Council
- The proposed use of the land and property will generally be supported by the Local Planning Authority
- The consideration is the best that can reasonably be obtained unless the disposal is through the Council's Asset Transfer scheme
- The terms of the disposal protect the Council's adjoining and retained land and property
- The terms of the disposal recover the Council's reasonable costs of sale, where possible

Best Consideration

Under the Local Government Act 1972 (as amended) the Council is obliged to obtain the best consideration that can reasonably be obtained when disposing of land and property. Best consideration is defined as the unrestricted market value taking into account any additional amount which might be obtained from a purchaser with a special interest. Unrestricted market value generally means the best price obtainable where the principle aim is to maximise the value of the receipt. The unrestricted value should take account of whatever uses might be permitted by the Local Planning Authority.

Consideration is not limited to the purchase price; it may also include disposal terms which have an identifiable commercial value to the Council but this should be converted to a capital value for the purpose of establishing what the best consideration is.

Where the Council is disposing of key strategic development land, it will evaluate the regeneration benefits arising from the disposal together with the financial considerations. The Council will also take account of the financial strength of the proposed purchaser and the purchaser's commitment to a proposed scheme.

The Local Government Act 1972 General Disposal Consent (England) 2003 allows the Council to dispose of land and property which it considers will contribute to the promotion or improvement of the economic, social or environmental wellbeing of the area at less than best consideration, providing the undervalue does not exceed £2m. For proposed transactions where the 'undervalue' will exceed the £2m threshold specific consent from the Secretary of State will be required.

Disposals undertaken through the Council's Asset Transfer Scheme will generally be at less than best consideration utilising the General Consents and will be subject to the requirements of the Scheme.

In circumstances where the Council is mindful to dispose at an under value it will have regard to the following:-

- Circular 06/03: Local Government Act 1972 General Disposal Consent (England) 2003 and General Housing Consents 2005 published by the Department of Communities and Local Government (DCLG), particular regard being had to the Technical Appendix which explains the issues outlined earlier in more extensive detail
- European Commission Communication on State Aid elements in sales of land and buildings by public authorities (97/C 209/03) – also known as the ‘State Aid Rules’.
- RICS Valuation – Professional Standards 2014 UKGN 5 – Local authority disposal for less than best consideration.

In determining whether or not to dispose of land for less than best consideration, the Council will ensure that it complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue in accordance with the Technical Appendix. Any decision to sell at an undervalue will be made by the Council’s Cabinet.

Methods of Disposal

All land and property assets which are released for disposal will be fully marketed with the exception of disposals to nominated and special purchasers (see below), which will be sold by private treaty negotiation.

Disposal of land and property can be undertaken in a number of ways and it is for the Council to determine the most appropriate sales mechanism for their asset, but potential approaches include:

- **Formal Tender** – where the sale is publicly advertised and tenders submitted by a given date.
- **Informal or Negotiated Tender** – where informal tenders are invited by a given date subject to contract. Negotiations may continue after tenders are received, with the possibility that different bidders may compete to offer the most advantageous terms. This approach enables the seller to continue to negotiate after the closing date for tenders to ensure the best possible terms and outcomes.
- **Public Auction** – where land is sold through an open auction, available to anyone. Sales will be publicly advertised in advance. Auctions have the advantage of being open, competitive and allow for transactions to be completed quickly.
- **Private sale** – where the sale of land is negotiated with one or a small number of potential buyers at a price agreed between the parties. Private sale has the advantage of being straightforward, but is likely to be appropriate only in certain circumstances (for example for smaller lots of land, where sitting tenants have rights to purchase and also farm tenants, etc.).

Disposals to Nominated Purchasers

Disposals to nominated purchasers will be considered by the Council where this meets an identified regeneration, social or community need. All 'off market' disposals to nominated purchasers will be subject to an independent external valuation to determine best consideration.

Disposals to Special Purchasers

The Council may dispose to purchasers to whom a particular asset has special value because of advantages arising from its ownership that would not be available to general purchasers in the open market. Such 'special purchasers' will include adjoining owners and parties with an interest in the property where a disposal will release additional, or marriage value, to be shared with the Council.

A single tenant who occupies more than 50% of a multi-occupied property maybe considered as a special purchaser (otherwise the property will be sold on the open market as an investment).

Disposal Terms

Wherever possible, the Council will endeavour to keep land and property disposals simple and cost effective for both parties. For certain types of disposals, it may be necessary for the Council to impose terms which are considered necessary to protect the Council's interests. Such terms may include:-

- *Development Obligations*
The Council generally will only dispose of strategic development land for identified development proposals. Where appropriate, the Council will impose obligations to commence and complete the proposed development within a reasonable timescale backed up with an option for the Council to re purchase the land.
- *Development Agreements*
Development agreements will be used for the disposal of strategic development sites where the principal aim of the disposal is to facilitate regeneration benefits from a particular scheme.
- *Overage and claw back*
Where appropriate, disposals will include provisions for securing a share of future enhanced values through the use of overage and claw back clauses.

Disposal and Planning permission

As a general principle, and in order to support the Council in the discharge of its statutory planning function, disposals will not normally be completed until planning permission (if required) is obtained. The Council will not be obliged to complete a disposal where an appeal has been lodged against a decision of the Local Planning Authority.

Prior to the marketing of land and property, the Council may seek planning permissions for alternative uses where this will help maximise value and where it is cost effective and expedient to do so.

Asset Transfer Scheme

The Council's Policy on Asset Transfer is contained in a separate document which can be accessed via the following link:-

<http://www.kirklees.gov.uk/community/yourneighbourhood/communityAssetTransfer.aspx>

Release/variation of covenants

The Council has the benefit of restrictive covenants placed on previous freehold and leasehold disposals. These covenants usually restrict the use to which land and property can be put, although they could also relate to other forms of restriction.

Any request to release or modify covenants will be considered having regard to the original purpose of the covenant and its current relevance. Where the Council is mindful to agree to a release or other modification, it will seek a reasonable commercial return by way of compensation if the release or modification is considered to have a value, otherwise just fee recovery.

Public Open Space and Common Land

The disposal of land which is, or forms part of an area of Public Open Space or Common Land, is subject to special rules and procedures. Before disposing of such areas, the Council is obliged to publish the intention to dispose and consider any representations which are subsequently received. The provisions regarding the disposal of Common Land require consent from the Secretary of State and replacement land to be made available where the area of land to be sold exceeds 200m².

Disposal of School Playing Fields

Where the Council wishes to dispose of land forming part of a school playing field it will be necessary, in all but a minority of cases (area less than 50m²) to seek consent from the Secretary of State. The Department for Education will usually only agree to the sale of school playing fields if the sports and curriculum needs of schools and neighbouring schools can continue to be met. The Secretary of State expects Local Authorities to have first investigated and exhausted all other possible sources of funding before considering the sale of school playing fields. Even if the school is closed it is extremely difficult to secure consent to dispose of playing field land.

Disposal of Former School Sites and Former School Caretaker's Houses

Where the Council wishes to dispose of a former school site it will be necessary to seek consent from the Secretary of State, if the closure was in the last eight years.

There are various criteria to be met, including having advertised the school as being available for use as a free school.

Vacant caretaker's houses may only be sold with the consent of the Secretary of State.

Land Exchanges

The Council will consider a disposal by way of an exchange of land when it is advantageous to the Council and the other parties. The disposal will be on the basis of an equality of exchange and any inequality in land value will be compensated for by a balancing payment or other means of consideration as appropriate.

Easements and Wayleaves etc

The Council will not grant any new easements, private rights of way or privileges over Council owned land unless this is necessary to protect or promote the long term interests of the Council.

Any existing rights will remain until such time as the subject land may be released for development whereupon the land will be sold subject to the existing rights.

Where permitted under the terms of the agreement, the Council will undertake a review of any payments due to the Council.

The Council will continue to grant easements and wayleaves to statutory undertakers who have compulsory powers and rights to requisition services.

2. GENERAL PRINCIPLES FOR ACQUISITIONS

The Council may from time to time acquire and interest in land and property in order to meet and identified operational or strategic need eg transportation and regeneration.

The Council will acquire land or property from the open market or privately having regard to normal and prudent commercial practices.

Where the Council proposes to make a compulsory purchase order (CPO) it will attempt to acquire the necessary interests by agreement in the first instance having regard to the methods and procedures for assessing the correct amount of compensation commonly known as the "Compensation Code".

3. GENERAL ISSUES

Decision-making process

This Disposals and Acquisitions Policy will be used as the basis for decision-making by Physical Resources and Procurement when operating the Delegation Scheme (Appendix 3) as amended and reissued from time to time. It will also be used as the basis for recommendations to Cabinet or Cabinet Committee - Assets where an Executive decision is required.

Value Added Tax (VAT)

The Council will elect to waive its exemption (opt to tax) on the disposal of land and property assets where the Council wishes to recover previously incurred input tax. The decision whether to opt to tax or not will be jointly made by the Service Directors responsible for Physical Resources and Procurement and Resources.

VAT will be payable on the disposal and letting of land used for car parking (including garages) where HMRC guidance states it must be charged and on rents, service charges and other charges where the Council has previously 'opted to tax'.

Consultation

Local ward members will be consulted in the following circumstances:-

- Before disposing of surplus land or property and the release or variation of restrictive covenants
- As part of the process for advertising the disposal of 'public open space'
- Before submitting planning applications on Council owned land
- Before a report goes to Cabinet or Cabinet Committee – Assets on land and property within their Ward

Where local ward members are to be consulted, they will be given at least 10 working days to respond and all comments whether in support or objection to the proposal will be included in the report to the decision making body.

Fee Recovery

Where appropriate, the Council will seek to recover from third parties, its reasonable legal, surveying and administrative costs incurred in dealing with all matters involving the non-operational portfolio. The fee recovery will be on the basis of the approved schedule of fees listed in Appendix 1.

Initial enquiries about the Council's land and property ownership will be provided at no cost.

Commissioning

The Council may, from time to time, commission external consultants in connection with the disposal and acquisition of land and property. The Council will procure consultants in accordance with its contract and financial procedure rules and wherever possible will use Kirklees based consultants in addition to utilising national and regional frameworks. The Council will ensure that the external consultants will possess the necessary professional and technical qualifications and experience.

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APPENDICIES

APPENDIX 1 – SCHEDULES AND OTHER INFORMATION

APPENDIX 2 – GLOSSARY OF TERMS

APPENDIX 3 - DELEGATION SCHEME – To be updated as necessary

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APPENDIX 1 – SCHEDULES AND OTHER INFORMATION

- Schedule of fees to be recovered from third parties including legal, surveyor's and administrative / consent fees.

Disposal Type	Fees	Minimum
Commercial disposals to nominated and special purchasers	3% of purchase price	£2,000
Competitive Disposals	2% of purchase price	
Sales of garden land	£625	
Asset Transfer	nil	
Transferor's consents	£500	

*All fees exclusive of Value Added Tax and disbursements
All fees will be reviewed on an annual basis

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APPENDIX 2 – GLOSSARY OF TERMS


Best Consideration	Best Consideration is the market value of land and/or property including any additional amount that is, or might reasonably be expected to be, available from a purchaser with special interest.
Capital Plan	The Council's plan for capital expenditure over a period of one to three years.
Compensation Code	The rights to compensation and methods and procedures for assessing the correct amount are derived from what is commonly referred to as the "Compensation Code". This is made up of Acts of Parliament, case law and established practice. The principal Acts are the Land Compensation Acts of 1961 and 1973 and the Compulsory Purchase Act 1965.
General Disposal Consent 2003	Provides a general consent removing the requirement for local authorities to seek specific approval from the Secretary of State for a wide range of disposals at less than best consideration.
Local Government Act 1972	Makes provision about local government and its functions. Section 123 relates to the disposal of land.
Opt to Tax	'Opt-to-tax' is a mechanism which enables the Council to recover VAT on expenditure relating to a property transaction (input tax; usually when there has been major expenditure on which a large amount of VAT has already been paid out) that would otherwise be irrecoverable. This can have significant positive effects on the Council's overall financial position.
RICS	Royal Institution of Chartered Surveyors
UKGN	United Kingdom Guidance Note

APPENDIX 3 - DELEGATION SCHEME

KIRKLEES COUNCIL

**DIRECTORATE FOR PLACE
RECORD OF POWERS DELEGATED BY THE DIRECTOR FOR PLACE
(Corporate Landlord Scheme)**

DATE: 6 December 2016

<i>Date last reviewed</i>	<i>December 2016</i>
<i>Approved by Signature</i>	
<i>Date Approved</i>	<i>December 2016</i>
<i>Version No.</i>	<i>1.2</i>
<i>Review Date</i>	<i>December 2016</i>
<i>Directorate contact officer</i>	<i>Joe Tingle</i>

DIRECTORATE FOR PLACE

DELEGATED POWERS

Purpose:

To set out the delegations from the Assistant Director, Place in accordance with the requirements of paragraph 6 of Part 3 Section F of the Council's Constitution.

Related Policies & Documents

- Council Constitution (Part 2: Article 13: Decision Making) - <http://www.kirklees.gov.uk/you-kmc/constitution/articles/art13.pdf>
- Council Constitution (Part 3: Responsibility for Functions) - <http://www.kirklees.gov.uk/you-kmc/constitution/ConstitPart3.pdf>
- Council Constitution (Part 4.6: Financial Rules & Procedures – <http://www.kirklees.gov.uk/you-kmc/yourCouncil/pdf/constitutionPart46.pdf>

Key Statutes/Legislation

Legislation applied in the delegated decisions specified in this document includes the following:

Academies Act 2010
Access to Neighbouring Land Act 1992
Acquisition of Land Act 1981
Agriculture Holdings Act 1986
Agricultural Tenancies Act 1995
Civil Procedure Act 1997
Common Law Procedure Act 1852
Commons Act 2006
Commons Registration Act 1965
Counter Terrorism and Security Act 2015
Crime and Disorder Act 1988
Criminal Law Act 1977
Education Act 1996
Highways Act 1980
Housing Act 1985
Land Compensation Act 1973

Landlord and Tenant Act 1927
Landlord and Tenant Act 1954
Landlord and Tenant Act 1988
Law of Property Act 1925
Leasehold Reform Act 1967
Leasehold Reform, Housing and Urban Development Act 1993
Local Government Act 1972
Local Government Act 2000
Local Government (Miscellaneous Provisions) Act 1976
Open Spaces Act 1906
Planning (Listed Buildings & Conservation Areas) Act 1990
Road Traffic Regulation Act 1984
School Standards and Framework Act 1998
Town and Country Planning Act 1990
Tribunals, Courts and Enforcement Act 2007

AND all secondary legislation enacted thereunder

Who is governed by this policy?

The scheme of delegations will apply to all permanent, contract and temporary officers working for the Council.

Summary

The Council's Constitution requires that each Director will prepare service schemes of delegation which set out how decisions will be made in each of the Services for which they are responsible. Such schemes should clearly identify which officers have been authorised to make decisions under the delegated powers of the Director. All schemes of delegation will be lodged with the Council's Monitoring Officer and made available to the public on request.

Officers may only exercise the powers delegated to them in accordance with all relevant statutory requirements, the provisions of the Council's Constitution, the revenue and capital budgets of the Council, its Procurement Code, Financial Regulations and other relevant policies and procedures.

Delegation is simply a way of allocating matters to the levels appropriate to ensure that the Directorate's business is dealt with in the most efficient way possible. Delegated power will normally be exercised at the lowest level to which it has been given. However, all such powers will also be held by the Director.

Where an officer post to which any function has been delegated is renamed or is affected by a staffing reorganisation, then the relevant delegation shall be treated as applying to the renamed post or, as appropriate, to the post which has been allocated the same or substantially the same relevant duties as the original post following that reorganisation.

In exercising the powers delegated to them officers must observe any additional procedural requirements that apply within their services e.g. any requirement to consult local ward councillors, cabinet members and/or the leader. It is also good practice to keep local ward councillors informed of decisions made and implemented under delegated powers that significantly affect members of the community in their ward.

Scheme of Delegation & Decision Making (Corporate Landlord)

Responsibility	Officer A	Officer B	Operational Manager	Senior Manager	Assistant Director
APPROPRIATION OF LAND					
LOCAL GOVERNMENT ACT 1972					
Authority to appropriate land Section 122 - Local Government Act 1972 Section 19 – Housing Act 1985 Town & Country Planning Act 1990 – Section 229 & Section 232	✓	✓	✓	✓	✓
Authority to instruct the Assistant Director – Legal, Governance & Monitoring to advertise the proposed appropriation of Public Open Space or Common Land Section 122	✓	✓	✓	✓	✓
DEDICATION OF LAND					
HIGHWAYS ACT 1980					
Authority to instruct the Assistant Director – Legal, Governance & Monitoring in connection with dedication of land as public highway	✓	✓	✓	✓	✓
OWNERSHIP INFORMATION					
LOCAL GOVERNMENT (MISCELLANEOUS) PROVISIONS ACT 1976					
Authority to issue notices requiring information as to interest in land Section 16	✓	✓	✓	✓	✓
TOWN & COUNTRY PLANNING ACT 1990					
Authority to issue notices requiring information as to interests in land Section 330	✓	✓	✓	✓	✓
HIGHWAYS ACT 1980					
Authority to issue notices requiring information as to ownership of land Section 297	✓	✓	✓	✓	✓
DISPOSAL OF LAND & PROPERTY					
Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring concerning disposals of all land, property & rights up to the value of £500,000, subject to terms over £250,000 being noted in the Forward Plan.			✓	✓	✓
PUBLIC OR QUASI OPEN SPACE, COMMON LAND OR VILLAGE GREENS					

Scheme of Delegation & Decision Making (Corporate Landlord)

Responsibility	Officer A	Officer B	Operational Manager	Senior Manager	Assistant Director
Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring to advertise the proposed disposal of Public or quasi Open Space, Common Land or Village Greens subject to no objections from members of the public.	✓	✓	✓	✓	✓
ACQUISITION OF LAND & PROPERTY					
Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring concerning the acquisition of all land, property & rights by agreement or compulsory purchase on behalf of the Council up to the value of £500,000, subject to terms over £250,000 being noted in the Forward Plan			✓	✓	✓
COMPENSATION					
Authority to determine, negotiate terms & instruct the Assistant Director – Legal, Governance & Monitoring concerning compensation payments on behalf of the Council up to the value of £500,000, subject to terms over £250,000 being noted in the Forward Plan			✓	✓	✓
RIGHT TO BUY					
Housing Act 1985 – Part V					
Authority to determine Right to Buy applications & discount. Authority to serve Notices in connection with the process. Authority to instruct the surveyor to value the properties. Authority to instruct the District Valuer in connection with determination & redetermination of value. Authority to serve Notices admitting or denying the Right to Buy. Authority to instruct the Assistant Director – Legal, Governance & Monitoring to conclude the disposal of the property.	✓	✓	✓	✓	✓
Authority to appear as a witness at First-tier Tribunal Property Chamber (Residential Property) to represent the Council’s case (whether written representations or oral hearing)			✓	✓	✓
Authority in conjunction with the Head of Housing Services to determine whether the Council should exercise its discretion with regard to the repayment of discount	✓	✓	✓	✓	✓
PLANNING APPLICATIONS					

Scheme of Delegation & Decision Making (Corporate Landlord)

Responsibility	Officer A	Officer B	Operational Manager	Senior Manager	Assistant Director
Authority to make applications for planning permission on Council land	✓	✓	✓	✓	✓
NOTICE TO QUIT					
Authority to sign and serve all Notices to Quit and all Notices under the Landlord and Tenant Act 1954.	✓	✓	✓	✓	✓
LETTING OF LAND & PROPERTY					
Authority to approve applications for the assignment of leases	✓	✓	✓	✓	✓
Authority to authorise formal Deeds of Apportionment of ground rents of leasehold properties	✓	✓	✓	✓	✓
Authority to negotiate terms for & sign standard forms of agreement in respect of site compounds, site licences, licences, wayleaves, rights of way, privileges & tenancies (not including tenancies in respect of Council Houses)	✓	✓	✓	✓	✓
Authority to give landlords consent in respect of long leases, where the long term interests of the Council are not prejudiced	✓	✓	✓	✓	✓
Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring to complete the letting of all commercial land and property.			✓	✓	✓
Authority to serve necessary Notices, negotiate rent reviews & in Leases & to authorise the Memorandum of Rent review			✓	✓	✓
Authority to instruct a third party in accordance with the Arbitration Acts where necessary to determine the rent review		✓	✓	✓	✓
Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring to complete lease renewals.			✓	✓	✓
Authority to approve changes of use, extension to user clauses or variations to covenants within Leases & instruct the Assistant Director – Legal, Governance & Monitoring to complete the documentation			✓	✓	✓
Authority to negotiate the surrender of Leases & instruct the Assistant Director – Legal, Governance & Monitoring to complete the documentation			✓	✓	✓
Authority to institute proceedings for & where necessary instruct the Assistant Director – Legal Governance & Monitoring take the necessary action to recover rent or other monies due to the Council under the provisions of tenancies or leases		✓	✓	✓	✓

Scheme of Delegation & Decision Making (Corporate Landlord)

Responsibility	Officer A	Officer B	Operational Manager	Senior Manager	Assistant Director
including the power of distraint, forfeiture and suing on the personal covenant					
EASEMENTS					
Authority to negotiate terms for & instruct the Assistant Director – Legal, Governance & Monitoring to grant or take easements whether for a term of years or in perpetuity.			✓	✓	✓
LANDS TRIBUNAL CASES/COURT APPEARANCES					
Authority to present the Council's case (whether written representations, at informal hearing or public inquiry)		✓	✓	✓	✓
TRESPASSERS/SQUATTERS					
LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012					
Authority to instruct the Assistant Director – Legal, Governance & Monitoring to recover possession of squatters from a residential buildings		✓	✓	✓	✓
CIVIL PROCEDURE ACT 1997					
Authority to instruct the Assistant Director – Legal Governance & Monitoring to regain/obtain possession of any land or premises, owned, leased or occupied by the Council which are occupied without the consent of the Council.		✓	✓	✓	✓
Authority to determine the scale of fees & charges relating to costs for administration & valuation work			✓	✓	✓
COMMUNITY RIGHT TO BID					
To determine procedures from time to time and comply with Section 87-108 of the Localism Act 2011 and the non-statutory guidance and the Assets of Community Value (England) Regulations 2012.				✓	✓
To consider the validity of the applications and to determine whether they are successful or not and inform all relevant bodies of the decision		✓	✓	✓	✓
Consider and determine valid request for listing review from owners.			✓	✓	✓
Consider valid applications for compensation for loss and expense incurred through the asset being listed or previously listed and to agree payment of compensation to affected owner/former owners.				✓	✓
To consider and determine valid applications from owner or former owners of land				✓	✓

Scheme of Delegation & Decision Making (Corporate Landlord)

Responsibility	Officer A	Officer B	Operational Manager	Senior Manager	Assistant Director
listed as an ACV for a review as to whether compensation should be made; and the amount of compensation and to give reasons for the review decision.					
To approve application of register and removal of local land charges and enter into restrictions on title at HM Land Registry for registered land to prevent disposal by the owner in breach of the regulations.				✓	✓
TERRORISM/EMERGENCY PLANNING - PREVENT					
To take all necessary steps to deal with an emergency in accordance with the Kirklees Emergency Plan and the Physical Resources & Procurement Service Business Continuity Plan.				✓	✓

Additional delegation approved by Cabinet 2016:

<p>Implications of school category changes for land and premises – an extension of delegation to senior officers to dispose of Council assets.</p> <p>That approval is given to the delegation of powers to the Assistant Directors Place and Assistant Director Legal and Governance to deal with the disposal of Council assets either as a result of school expansion, historic or otherwise and also when a school changes category.</p>				✓	✓
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Underpinning all activity:

Terrorism/Emergency Planning – Prevent:

To ensure the Council's policies, procedures and resources in the leasing/letting[disposal] of property have due regard to 'Prevent' duty under s26 of the Counter Terrorism and Security Act 2015 and Home Office Guidance to prevent people being drawn into terrorism [and that Contractors support the Council to discharge the 'Prevent duty'].

Scheme of Delegation & Decision Making (Corporate Landlord)

Key to roles:

Responsibility	Post Title, Section
*Assistant Directors, Place	*This delegation applies to all Assistant Directors in the Place Directorate
**Senior Managers (Grade 17-19)	Head of Corporate Landlord Capital Development and Capital Delivery Schools Facilities Manager Head of Building Services
Operational Managers (Grade 13 -16)	Asset Strategy Officer Disposal and Acquisition Team leader
Officer A	Asset Management Officer (Land) Right to Buy Officer Disposal and Acquisition Officers
Officer B	Corporate Facilities Manager Asset Strategy Officer Disposal and Acquisition Surveyor

** Records of all delegations taken 'of significant public interest' will include the designated post holder taking the decision.

* The Scheme of Delegation will be reviewed periodically to take account of organisational change.

Name of meeting: Cabinet
Date: 2nd May 2017

Title of report: Kirklees Partnership with National Citizen Service (NCS)

Purpose of report:

To provide Cabinet with information relating to the establishment of a pioneering partnership with the NCS. The proposed partnership would be the first of its kind in the UK offering the depth and breadth of Local Authority engagement with NCS.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	N/A
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	No – the report is for information only. The partnership will have a positive effect upon all wards but this is not significant in terms of spend, service change or impact upon all residents.
The Decision - Is it eligible for “call in” by Scrutiny?	N/A no decision being requested.
Date signed off by Director & name Is it also signed off by the Service Director for Finance, Professional and Transactional Services? Is it also signed off by the Service Director for Governance and Commissioning Support?	Gill Ellis, Director for Children’s Services 19 April 2017 Debbie Hogg, 19 April 2017 Julie Muscroft, 19 April 2017
Cabinet member portfolio	Cllr Masood Ahmed – Community Cohesion and Schools

Electoral wards affected: All
Ward councillors consulted: Cabinet members

Public or private: Public

1. Summary

1.1 NCS is a national institution for all young people with a permanent statutory footing granted in 2016. It started life as pilot project founded by a small group of social entrepreneurs who had a vision “that young people can change the world around them if given the right tools, opportunities and respect”. NCS seeks to advance three key social challenges.

- 1. Social Cohesion** - To bring our country together by building stronger, more integrated communities and fostering understanding between young people from different backgrounds
- 2. Social Mobility** - To build essential skills for life and work, investing in our country’s future talent.

3. Social Engagement - To engage young people in social action in their communities and the democratic process, building their understanding of their responsibilities as citizens.

- 1.2 All young people aged 15-17 are currently eligible to take part in an NCS programme which typically lasts 2-4 weeks and takes place during the spring, summer, and autumn holiday periods. Young people participate in groups of between 12 -15 and are usually placed with people they have previously not met. A Programme is made up of the following phases:

Adventure - A residential week involving exciting and challenging outdoor activities.

Discover - Participants develop life skills, confidence, leadership and communication and meet a diverse range of businesses, local leaders and community organisations.

Social Action - Participants plan, develop and deliver a social action project to make a difference in their community.

Graduation - A celebration of participation but also the next phase of the programme whereby young people are encouraged to continue their volunteering and support for other young people as an NCS Ambassador or paid seasonal worker.

- 1.3 Over 200,000 young people have become NCS graduates since 2010 with over 75,000 taking part in 2016. The aim is for over 1m young people to have taken part by 2020. Evaluations of the programme show it is having a considerable impact in the three areas of Social Cohesion, Social Mobility and Social Engagement.
- 1.4 In Kirklees, participation is growing but is not as high as other areas – approx. 700 young people took part in 2016 and over 800 will participate in the 2017 summer programme. NCS approached the Chief Executive and Interim Director of Children’s Services to consider how, working in partnership with NCS, the Council could maximise the NCS investment in its young people and ensure that those young people are able to contribute positively to the social challenges we face as a district.

2. Information required to take a decision

- 2.1 The following headline activities have been discussed with Leadership and Management Team (LMT) and agreed with NCS and the local NCS delivery partners.
- The Council Portfolio Holder for Community Cohesion and Schools will become the NCS Champion in the Council’s Cabinet and will bring the influence of his office to the programme in the district.
 - We will appoint an NCS Programme Leader within Children’s Services team who will report directly to the Deputy Assistant Director – Skills, Enterprise and Progression. The NCS Programme Leader will work directly with colleagues in the local delivery teams and with Schools, Colleges, Looked After Children / Care Leaving teams, Youth Offending Team, Careers Education, Community Cohesion, Early Help etc. to embed and promote the programme.

It is vital that there is a truly inclusive approach in Kirklees which supports the Council's priorities around early help, community cohesion and active citizenship and is fully integrated with the work of the democracy commission.

- An NCS Strategy Group will be chaired by the Cabinet Portfolio Holder with cross-party representation and key senior officers. The Group will champion the development of the programme in Kirklees ensuring that the programme delivers on key strategic outcomes. The group will also include senior representation from partners across the district including Kirklees Association of Secondary Heads, Sixth Form and Further Education Colleges, University of Huddersfield, Calderdale and Kirklees Careers, Third and Faith Sector Leaders, Communications Team and NCS local delivery providers.
- A lead communications professional from the Council's communications team will ensure develop an effective communication plan to: raise awareness of the programme at the highest level in the Council across elected members and officers; increase awareness of the programme across the district providing visible demonstration of its benefits to young people and their communities; and drive increased referrals to the programme particularly for young people from vulnerable groups. Young people will be heavily involved in the communications planning in order that it gets across the right messages to potential participants.
- We will arrange for NCS local delivery partners to have input at key meetings / events involving leaders of learning in Kirklees. This includes school curriculum leaders, Careers network, Post 16 Progression Board and PSHE Network.
- We will establish a programme of democratic engagement, based upon the work of the democracy commission. This will provide the opportunity for all elected members to engage with young people on an NCS programme providing the basis for Social Action projects which are informed by and shared with ward members.
- We will work with partners and NCS local delivery teams to address challenges where an NCS referral / programme could have a positive and beneficial impact. For example, this could be where young people are at risk of dropping out of provision or underachieving due to motivational / personal issues. Post 16 (year 12) dropout rates peak in the period following the Autumn half-term and timely intervention via NCS could help address underlying reasons (confidence, friendships, low level mental health issues etc.).
- We will ensure that the assets and facilities of the Council and partners are at the disposal of the programme where it helps to facilitate delivery and increased participation. In a promotional sense this could be through attendance at Careers events both in Schools and at the annual Choices event at the John Smiths Stadium. We will also work with local delivery teams to directly mail NCS postcards to parents and guardians who have not received NCS marketing literature via other marketing channels. In terms of delivery, this could be through community venues, Council and partner buildings like the town halls in Dewsbury, Batley and Huddersfield and the vast venues of Kirklees College and University of Huddersfield.

Charges may apply in some cases but we will seek to ensure that NCS benefits from support in-kind where possible.

- The NCS Senior Leadership Team has approved the headline actions and will provide the Council with £65,000 of funding to support the activity proposed.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

The partnership with NCS will support proactive interventions both for people who may be at risk or vulnerable and for whom participation may address the underlying issue e.g. low level mental health issues. The Social Action projects themselves, designed and run by participants, often address issues within communities that deliver EIP benefits e.g. promoting active lifestyles, developing befriending schemes bringing people together across age ranges and faiths.

3.2 Economic Resilience (ER)

The NCS programme has been evaluated and shown to have a very positive impact upon economic resilience factors including: work readiness; enterprise skills; confidence in presenting business ideas; creating a resilient third sector and volunteer economy and through the NCS investment – providing jobs and income for local people and organisations.

3.3 Improving Outcomes for Children

The partnership with NCS will support the outcome for all children to have the best start in life. In particular, it will support them to make positive decisions for themselves, their families and their communities and to make a positive contribution to their family, their school and their community (and so to) Kirklees and society and we will be promoting NCS rigorously with our vulnerable youngsters. NCS participation has shown to have a positive impact upon self-esteem and confidence and reduces anxiety and supports the development of skills and aspirations that leads to greater confidence in securing employment and skills.

3.4 Reducing demand of services

The increased participation of young people in NCS should have a positive effect upon NEET figures in the long-term and reduce the need for services which support young people who are NEET.

3.5 Legal / Financial or Human Resources

The Council will need to enter into an 18 month funding agreement with NCS. Colleagues in Legal and Finance will be involved in approving and finalising that agreement. Colleagues in Human Resources will advise on the recruitment and appointment of the lead officer following current vacancy management protocols.

4. Consultees and their opinions

- 4.1 LMT have been consulted on the proposals and their feedback on the work of the democracy commission, effective communications and the involvement of young people, and the need for the programme to align with the work around early help.

5. Next steps

- 5.1 An implementation plan is being developed with NCS and local delivery partners. A wider strategic document, linked to the Kirklees Outcomes will be developed with the Portfolio Holder for Community Cohesion and Schools and the Strategy Group.

6. Officer recommendations and reasons

- 6.1 There is no specific decision to be taken regarding the report. It is recommended that Cabinet note the report and endorse the positive opportunities the partnership with NCS presents for the citizens of Kirklees.

7. Cabinet portfolio holder recommendation

- 7.1 The portfolio holder recommends that Cabinet note the report and endorses the positive opportunities the partnership with NCS presents.

8. Contact officer

- 8.1 Martin Green Deputy Assistant Director Learning and Skills

9. Background Papers and History of Decisions

- 9.1 Not applicable

10. Assistant Director responsible

- 10.1 Jo-Anne Sanders, Interim Service Director for Early Help & Learning

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Name of meeting: Cabinet
Date: 2nd May 2017
Title of report: Nexus In-School: Transfer of Responsibility to C&K Careers Ltd

Purpose of report

To ask Cabinet to consider the proposal to transfer the responsibility of the Nexus in-School programme to C&K Careers Ltd.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Yes
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by Director & name	Gill Ellis, Director for Children's Services, 19 April 2017
Signed off by the Service Director (Financial Management, IT and Transactional Services)	Debbie Hogg, 19 April 2017
Signed off by the Service Director (Governance and Commissioning)	Julie Muscroft, 19 April 2017
Cabinet member portfolio	Cllr Masood Ahmed

Electoral wards affected: Not Applicable

Ward councillors consulted: Not Applicable

Public or private: Public

1. **Summary**

Nexus In-School is a supported extended work placement service offered to schools for their Year 11 students who require a vocational focus. The proposal is that Kirklees Council no longer delivers the service but the service is transferred to C&K Careers Ltd. This will allow the provision to be sustained and located in an organisation operating with similar models of delivery and able to provide a wider commercial offer. More appropriate management arrangements would be in place enabling the project to become more sustainable and economically viable, and better linked to employment and training.

2. **Information required to take a decision**

Background

Nexus In-School offers Year 11 students the opportunity of extended work experience with local employers, coupled with the opportunity to reinforce their learning from placement with a selection of structured learning sessions throughout the year. The remaining time is spent in school taking a reduced number of core GCSEs. The project has been successful in addressing attendance and performance issues. Students are assigned a designated project officer who works with them intensively throughout the year.

Each year between 20 and 32 Year 11 young people take part in the Nexus In-School programme. Numbers who benefit will always be small due to the unique nature of the offer. In 2016/17 we have 12 schools buying places on the programme and 31 young people taking part.

Of the 24 students on the project in 2015/16, 96% are EET (in Employment, Education or Training). 29% of those young people are in apprenticeships, four of which are with the employer with whom they carried out their work placement (2nd November 16).

It has been necessary to review the delivery arrangements for the following reasons:

- The current model sits within a team in Learning and Skills which does not directly deliver provision to Schools or young people. Being part of a direct delivery service would provide more effective management arrangements and a specific link to schools for referral and monitoring processes. Currently, to address this issue, the team are sub-contracted to C&K Careers, however this model is not sustainable or cost effective in the long term. The sub-contracting arrangement will end once the service and staff are transferred.
- This project is not something that only the Council can do and would benefit from exposure to a wider geographic market.
- In the new council's role as commissioners, schools and young people would be better served by C&K Careers Ltd, with direct delivery to schools and widening the alternative provision options.

Proposal

Transfer delivery of the Nexus in-School programme to C&K Careers Ltd. This will result in the three current members of staff transferring to C&K Careers under TUPE regulations.

Timescale

To transfer the programme to C&K Careers Ltd as soon as practically possible to secure effective delivery for the 2017/18 cohort.

Expected Outcomes and Sustainability

The services to young people secured from the project would:

- be sustained;
- benefit from operating from a context of similar provision;
- have more appropriate management arrangements;
- be more economically viable; and
- be developed to changing needs.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

Prevention of young people from becoming NEET (Not in Education, Employment and Training) with the associated long term negative effects.

3.2 Economic Resilience (ER)

Preparing young people for the labour market.

3.3 Improving Outcomes for Children

The project has demonstrated significant improvements in outcomes for a group of young people who are at risk of disengagement from School. The proposal will allow C&K Careers to explore offers around work placement for young people and combine this with their service area of careers information advice and guidance, particularly vulnerable children.

3.4 Reducing demand of services

There will be no impact

3.5 Legal/Financial or Human Resources

The transfer will generally be cost neutral as the income generated from Schools who purchase the Nexus service has covered the staffing costs of the team who deliver. A small management fee paid to C&K Careers Ltd under the current sub-contracting arrangements will no longer be needed and will contribute to the overall savings required from the Learning and Skills service in the MTFP.

The proposal is likely to involve the transfer of the employment of three members of staff and the delivery of the Nexus service to C&K Careers Ltd. The Council's Human Resources service will ensure that the appropriate steps to inform affected members of staff required by the TUPE Regulations are completed and colleagues in Legal will advise on the transfer of the service and any agreement drawn up with C&K Careers Ltd. C&K Careers have confirmed that the pension entitlements of the members of staff can be accommodated within their scheme as it is only closed to new members of staff.

4. **Consultees and their opinions**

Calderdale and Kirklees Careers Ltd have been fully consulted on the proposals and would welcome the transfer of the service and the staff. They believe the service will be economically viable and the staff (all of whom are qualified careers advisors) will add value to the organisation. As part of the consultation with C&K Careers Ltd, Schools who currently purchase the service have been engaged regarding the proposals and no significant issues have been raised by them concerning the future plans.

The members of staff concerned have been informed of the proposal and have had the chance to discuss it with their line manager within the Council. Their trade unions have also been informed of the proposals. No significant matters have arisen.

5. **Next steps**

Subject to approval the next steps will be undertaking due diligence process and TUPE arrangements. The preferred timescale would be completion of the transfer on or before the end of August 2017. Regular updates will be provided to the Learning and Skills Leadership Team.

6. **Officer recommendations and reasons**

In principle the cabinet agrees, subject to the satisfactory completion of due diligence by both parties, that Kirklees Council no longer delivers the service and it is transferred to C&K Careers Ltd. In order to expedite this, Cabinet grant delegated authority to the Service Director (Learning and Early Support) in consultation with the portfolio holder (Community Cohesion and Schools) to negotiate and agree any contractual details of the proposed transfer to C&K Careers Ltd.

7. **Cabinet portfolio holder's recommendations**

The portfolio holder recommends, subject to the satisfactory completion of due diligence by both parties, that the service is transferred to C&K Careers Ltd and that Cabinet delegates authority to the Service Director (Learning and Early Support) to negotiate and agree any contractual details of the proposed transfer to C&K Careers Ltd in consultation with the portfolio holder. The transfer of the Nexus service will enable it to continue to deliver positive outcomes in the long-term for a group of young people who are at risk of under-achieving and becoming NEET.

8. **Contact officer**

Martin Green Deputy Assistant Director Learning and Skills

9. **Background Papers and History of Decisions**

Not Applicable

10. **Assistant Director responsible**

Jo-Anne Sanders

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