

## **PART 3**

# **RESPONSIBILITY FOR FUNCTIONS**

## **SECTION F**

### **Scheme of Delegation to Officers [NOTE: Section F is under review to update current delegations]**

#### **General Provisions**

1. A Scheme of Delegation has been introduced that is founded on the principle of delegation “by exception”. That means that the delegating body delegates everything that can lawfully be delegated (both non-executive and executive functions) to a Strategic Director or, in appropriate circumstances, to the Service Director – Governance, Commissioning and Legal, save for exceptions which are listed. Therefore the listing is of what is not delegated, as opposed to a listing of what is (although a number of specific delegations are referred to for clarity and the avoidance of doubt).
2. Officers may only exercise the delegated powers in this Scheme in accordance with:
  - a) All relevant statutory requirements including the principles of public law and the provisions of the Human Rights Act 1998, statutory guidance and statutory codes of practice; and
  - b) The provisions of this Constitution (including the provisions of the Access to Information Procedure Rules relating to the taking of key decisions); and
  - c) The revenue and capital budgets of the council, subject to any variation thereof permitted by the Council’s Financial Procedure Rules.
3. Officers may not exercise delegated powers where:
  - a) The matter is reserved to the council by law or by the council’s Constitution;
  - b) The matter is a function which cannot by law be discharged by an officer;
  - c) The council, the Executive or Committee, Sub-committee or Panel has determined that the matter should be discharged otherwise than by an officer;
  - d) In relation to executive functions, the Leader of the Council or the relevant Cabinet member has directed that the matter should be referred to the Executive for determination;
  - e) In relation to non-executive functions, the Chair of a Council Committee, Sub-committee or Panel has directed that the matter should be referred to the appropriate Committee, Sub-committee or Panel for determination;
  - f) The decision would be contrary to any approved policies and plans of the Council.
4. The Scheme provides for the delegation of authority to the relevant Strategic

Director or the Service Director –Governance, Commissioning Support and Legal (as appropriate). However the relevant Strategic Director or the Service Director – Governance, Commissioning Support and Legal may arrange for such delegated authority to be exercised on their behalf by an officer of appropriate experience and seniority. The Strategic Director or Service Director – Governance, Commissioning Support and Legal (as appropriate) shall remain personally responsible for any decision taken on their behalf pursuant to the delegation arrangements.

5. All decisions taken must be clearly recorded and must clearly identify the officer responsible for taking the decision.
6. Each Strategic Director together with the Service Director – Governance, Commissioning Support and Legal will prepare Service Schemes of Delegations which set out how decisions will be made in each of the Services for which they are responsible. Such schemes should clearly establish which officers have been given authority to make decisions under the delegated powers of the Strategic Directors or Service Director –Governance, Commissioning Support and Legal, the extent of the delegated authority of those officers and any terms, conditions and/or limitations subject to which those delegations must be exercised. All service schemes of delegation will be lodged with the Council's Monitoring Officer and made available to the public on request.
7. Where an officer has delegated authority to discharge functions by virtue of any provision of this Constitution other than the Scheme of Delegation set out in Section F, or by virtue of a specific decision of the Council, a Committee, Subcommittee, Panel or the Executive, whether made before or after the adoption of this Scheme, the absence of that delegation from this Scheme shall not be treated as preventing the exercise of that delegation.
8. Where an officer has delegated authority to discharge functions in consultation with the relevant Cabinet member, in the absence of that Cabinet member the officer may discharge such function in consultation with the Leader instead (or in the Leader's absence, in cases of urgency, with the Deputy Leader).
9. Where the delegation provides for discharge of a function in consultation with the Leader, in the absence of the Leader the officer may discharge the function, in cases of urgency, in consultation with the Deputy Leader instead.
10. This Scheme describes particular functions as executive functions and non-executive functions for illustrative purposes only, and misattribution of a function as executive or non-executive shall not be treated as preventing the exercise of the delegation.
11. "Function" for the purposes of this Scheme of Delegation is to be construed in a broad and inclusive fashion and includes the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

12. Where relevant, the delegations within this Scheme also include the appointment of the Chief Officer as “proper officer” for the purpose of any function delegated to him/her under these arrangements.

## Chief Executive

The holder of the post of Chief Executive is designated the Head of Paid Service for the purposes of section 4 of the Local Government and Housing Act 1989 and shall have overall corporate and operational management responsibility for the Council, its officers, the functions it carries out and the services it delivers. The Chief Executive also has specific responsibility for the operational management of the Policy Unit.

The duties of the Head of Paid Service are to report to the Council where necessary setting out proposals with respect to the co-ordination of the Council's functions, the number and grades of staff required and the organisation, appointment and proper management of the Council's staff.

Subject to compliance with the Constitution, FPRs, CPRs and approved policies of the Council or Executive (as appropriate) and all legal requirements and, without prejudice to the foregoing, the Chief Executive shall have power to discharge and is responsible for those functions and areas assigned to him/her in Article 12.1b of the Constitution.

The Chief Executive may also:

- (a) Discharge any function of the Council and Executive which has not been specifically delegated to another officer, committee or otherwise reserved by full Council or the Executive and may direct any Chief Officer not to exercise a delegated function in special circumstances unless they are required to do so by law.
- (b) Deal with emergencies and disasters and the carrying out of civil defence functions.
- (c) Take emergency action in the following circumstances:

The Chief Executive (or any Strategic Director nominated from time to time by the Chief Executive, or if any such Strategic Director is not available or if no such nomination has been made, any Strategic Director) is empowered, in consultation with the Leader or relevant Committee Chair (unless the urgency makes this impracticable) to make decisions on any issues in circumstances which he/she reasonably considers to be an emergency, reporting to the Cabinet or relevant Committee as soon as possible thereafter.

- (d) Establish such officer boards as he/she considers necessary to oversee the proper administration, management and strategic direction of the Council and its service delivery functions and responsibilities. He/she has power to determine the membership and terms of reference of the officer boards that are established. He/she also has power to determine the decision making arrangements of such boards including the delegation of authority to the Chair of each officer board to make such decisions as he/she considers appropriate.

## Support Services Matters

### Human Resources

### Non-Executive Functions

1. In addition the Chief executive may discharge of all functions and responsibilities of the Council included within the terms of reference of the Personnel Committee (save for the appointment of staff at Service Director level and above), subject to the exceptions that:

Matters are referred to the Personnel Committee in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;
- ii) Determinations as to the grading of posts of the Chief Executive and Strategic Directors;
- iii) Sanctioning of compulsory redundancy proposals for Strategic directors;
- iv) Sanctioning of early retirement/voluntary severance or ill health retirement proposals for Strategic directors;
- v) Decisions as to the implementation of the discretionary areas of nationally negotiated agreements relating to rates of pay and terms and conditions of employment; and
- vi) Approval of all local terms and conditions of employment including discretionary holiday days.

Matters are referred to a panel appointed by the Personnel Committee in the following cases:

- (i) Any grievance raised by the Chief Executive.

### Executive Functions

2. Discharge of all functions and responsibilities of the Council relating to human resources that are not included within the terms of reference of the Personnel Committee and are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

## General Service Support

### Executive Functions

1. Discharge of all functions and responsibilities of the Council relating to general service support including, but not limited to:

- (a) Leadership, management and workforce development;
- (b) Human Resources;
- (c) Learning and Organisational Development;
- (d) Communications and Marketing;
- (e) Employee Healthcare;
- (f) Payroll and Personnel;
- (g) Recruitment and Temp Direct; and
- (h) Pensions.

And not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

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## **Strategic Director for Children and FamiliesYoung People**

The holder of the post of Director for Children and Young People is the statutory officer for the purposes of Section 18 of the Children Act 2004 and is responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Directorate for Children and FamiliesYoung People and without prejudice to the foregoing, shall have power, subject to compliance with the Constitution, FPRs, CPRs and approved policies of the Council or Executive (as appropriate) and all legal requirements to:

### **A. Learning matters**

#### **Executive Functions**

1. Discharge all of the education and learning functions and responsibilities conferred on or exercisable by the local authority, except those excluded by Section 18(3) of the Children Act 2004, that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;

Without prejudice to the generality of the above, such functions and responsibilities referred to in A1 above include, but are not limited to:

- (a) Transforming the school system.
- (b) 14-19 education and skills and adult learning.
- (c) School and early years improvement.
- (d) Inclusive learning.
- (e) Learning support for vulnerable children and young people.
- (f) Promoting and supporting school attendance.
- (g) School and early years planning and school admissions.

### **B. Family Support and Child Protection matters**

#### **Executive functions**

1. Discharge all of the functions and responsibilities conferred on or exercisable by the Council, which are Social Services functions and responsibilities (within the meaning of the Local Authority Social Services Act 1970) so far as they relate to children together with the Council's youth offending functions under

the Crime and Disorder Act 1998 that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council, together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;

Without prejudice to the generality of the above, such functions and responsibilities referred to in B1 above include, but are not limited to:

- (a) Support for children and families
- (b) Safeguarding of children including effectiveness of Kirklees Safeguarding of Children Board.
- (c) Social care and assessment.
- (d) Services for disabled children.
- (e) Corporate parenting for Looked After Children.
- (f) Integrated youth support.
- (g) Specialist support for children with special needs and additional needs.
- (h) Implementation and management of strategies for children.
- (i) Partnerships for children.
- (j) Children's Trust.
- (k) Managing, developing and leading strategic commissioning for childrens social care
- (l) Driving Service Quality and development.
- (m) [Independent Review and advocacy]
- (n) Cross-sector Development.
- (o) Regulation and Quality.
- (p) Cross-directorate Strategic Support.
- (q) [Strategic Partnerships and ] Commissioning relevant services to support these functions and responsibilities

## Strategic Director for Economy and Infrastructure

The holder of the post of Strategic Director for Economy and Infrastructure shall be responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Place Directorate and without prejudice to the foregoing, shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:

### Investment and Regeneration

#### A. Development Management, Strategic and Neighbourhood Planning and Public Rights of Way Matters

##### Non-Executive Functions

(1) All functions and responsibilities of the Council as

- Local Planning Authority (within the meaning of Section 1(2) Town and Country Planning Act 1990, Section 81 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 2 of the Hedgerow Regulations 1997))
- Mineral Planning Authority (within the meaning of Section 1(4) of the Town and Country Planning Act 1990)
- Relevant Authority (within the meaning of the Part 8 of the Anti-Social Behaviour Act 2003)
- Hazardous Substances Authority (within the meaning of Section 1 of the Hazardous Substances Act 1990)

relating to development management, strategic and neighbourhood planning, public rights of way, high hedges and hazardous substances included within the terms of reference of the Strategic Planning Committee except:

(1) The determination of planning applications for full or outline planning permission which are specifically reserved to the Strategic Planning Committee, namely:

- a) Planning applications where the proposed decision will be contrary to any saved policy of the Unitary Development Plan save for:
  - Planning applications involving the development of no more than 60 residential units where the proposed decision will only be contrary to saved Policy D5.
- b) Planning applications that straddle administrative boundaries<sup>1</sup>.

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<sup>1</sup> Unless the Strategic Director of Economy and Infrastructure in consultation with the Chair of the Strategic Planning Committee determines that it would be more appropriate for the planning application to be decided by the relevant Area Sub-Committee

- c) Planning applications that straddle Planning Area Sub-Committee boundaries<sup>2</sup>.
- d) Planning applications for residential developments exceeding 60 units.
- e) Non-residential planning applications (including employment, leisure and education development) where the application site boundary exceeds 0.5 hectares<sup>3</sup>.
- f) Planning applications for wind turbines which involve the generation of more than 1MW collectively.
- g) Other energy production planning applications exceeding 5MW or where the application site boundary exceeds 1 hectare.
- h) Planning applications for major infrastructure proposals.
- i) Planning applications for major infrastructure proposals.
- j) Planning applications for new minerals sites or physical extensions to existing minerals workings where the area to be developed exceeds 0.5 hectares.
- k) Planning applications for retail developments exceeding 1250 square metres gross in floorspace which officers are proposing to approve.
- l) Planning applications for gypsy/traveller sites.
- m) Any other planning applications that are considered appropriate for referral to the Strategic Planning Committee by the Strategic Director for Economy and Infrastructure in consultation with the Chair of the relevant Area Sub-Committee e.g. planning applications for residential development which will significantly increase the size of an individual settlement.
- n) Planning applications for exploration, appraisal and production of oil and gas resources by fracking.
- o) Planning applications for the disposal of special hazardous wastes where the application site boundary exceeds 0.5 hectares.
- p) Planning application for mixed use developments that include more than 50 residential units and employment, leisure and/or non-residential development where the application site boundary exceeds 0.5 hectares.
- q) Matters that fall to be considered by the relevant Planning Area Sub-Committee as specified in paragraph 3 of the General Provisions and in the following

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<sup>2</sup> Unless the Strategic Director for the Economy and Infrastructure in consultation with the Chair of the Strategic Planning Committee determines that it would be more appropriate for the planning application to be decided by the relevant Area Sub-Committee

<sup>3</sup> As above

cases:

- i) planning applications for residential development where the area to be developed is in excess of 0.5 hectares but propose fewer than 61 units;
  - ii) planning applications for retail development in excess of 750 sq metres gross floor area which officers are proposing to approve;
  - iii) if the delegated officer so decides:
    - a) with the agreement of the Chair of the relevant Sub-Committee; or
    - b) due to the significant volume of local opinion;
  - iv) where any ward member so requests in relation to any planning application or submission<sup>4</sup> within their ward and the Chair of the relevant Sub-Committee has confirmed that the ward member's reasons for making the request are valid having regard to the requirements of the Councillors' Protocol for Planning Committees and Sub-Committees; and
  - v) where any member for the wards of Almondbury, Ashbrow, Colne Valley, Crosland Moor and Netherton, Dalton, Denby Dale, Golcar, Greenhead, Holme Valley North, Holme Valley South, Kirkburton, Lindley and Newsome so requests with regard to any application/submission<sup>5</sup> for development falling wholly or substantially within Huddersfield Town Centre and the Chair of the relevant sub-committee has confirmed that the ward member's reasons for making the request are valid having regard to the Councillor's Protocol for Planning Committees and Sub-Committees and that the application / submission does relate to development falling wholly or substantially within Huddersfield Town Centre
- (Ward members are required to specify in writing their reasons for making the request which shall reasonably relate to some aspect of the site or the development. The reason will be incorporated in full in the Sub-Committee report)
- vi) applications for listed building consent involving the partial or total demolition of Grade I or Grade II\* listed buildings;
  - vii) the serving of building preservation notices under Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in non-urgent cases;

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<sup>4, 8</sup> "Submission" means:

- applications for approval of reserved matters relating to extant outline planning permissions that were not determined by the Strategic Planning Committee
- applications under s73 TCPA 1990 relating to extant permissions that were not determined by the Strategic Planning Committee

- viii) planning applications for the disposal of special hazardous wastes on sites up to and including 0.5 hectares;
- ix) applications to court for an injunction to restrain:-
  - a. any actual or apprehended breach of planning control;
  - a. any actual or apprehended offence under the Hedgerow Regulations 1997;
  - b. any actual or apprehended offence under Sections 210 or 211 of the Town and Country Planning Act 1990;
  - c. any actual or apprehended contravention of Section 9(1) or (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990;

in non-urgent cases where action does not need to be instigated in advance of the next scheduled Sub-Committee.

- x) Applications for the stopping up and diversion of footpaths, bridleways and restricted byways under Section 257 of the Town and Country Planning Act 1990 where;
  - a. any member so requests in relation to an application within their ward. The member shall specify in writing his/her reasons for making the request; or
  - b. there is no majority support for the proposed action by the three ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal).
  - c. the revocation of certificates of lawfulness of existing use or development and certificates of lawfulness of proposed use or development;
  - d. all applications submitted by or on behalf of any elected member of the Council (in their personal capacity) or any member of their family;
  - e. all applications submitted by or on behalf of any member of staff (in their personal capacity) who works for the Investment and Regeneration Service and any member of their family;
  - f. all applications submitted by or on behalf of the Chief Executive, any member of the Directors Group or Management Board or any Head of Service or Senior Manager (in their personal capacity) or any member of their family.

- r) The determination of all submissions<sup>6</sup> (relating to extant outline or full planning permissions that were originally considered by the Strategic Planning Committee) where the following circumstances apply:
- i) if the delegated officer so decides:
    - a) with the agreement of the Chair of the Strategic Planning Committee; or
    - b) due to the significant volume of local opinion
  - ii) where any ward member so requests in relation to any submission within their ward and the Chair of the Strategic Planning Committee has confirmed that the ward member's reasons for making the request are valid having regard to the requirements of the Councillors' Protocol for Planning Committees and Sub-Committees;

Without prejudice to the generality of the above, but subject to the specific exceptions set out in (1), (2) and (3) above, such functions and responsibilities referred to in A1 above include but are not limited to:

- (a) Determination of applications under section 73 of the Town and Country Planning Act 1990
- (b) Determination of applications under section 96A of the Town and Country Planning Act 1990
- (c) Determination of the applications/submissions to discharge planning conditions on all planning permissions and reserved matters approvals
- (d) Determination of all applications for the approval of reserved matters.
- (e) Determination of planning applications to modify elements of approved developments that benefit from extant planning permissions (e.g. modified house types, minor layout changes)

### **Executive Functions**

2. All relevant functions and responsibilities of the Council as:
- Local Planning Authority (within the meaning of Section 1(2) Town and Country Planning Act 1990, Section 81 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulation 2 of the Hedgerow Regulations 1997)
  - Mineral Planning Authority (within the meaning of Section 1(4) of the Town and Country Planning Act 1990)

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<sup>6</sup> "submission" means applications for approval of reserved matters and applications under s73 TCPA 1990

- Relevant Authority (within the meaning of Part 8 of the Anti-Social Behaviour Act 2003)
- Hazardous Substances Authority (within the meaning of Section 1 of the Hazardous Substances Act 1990)

relating to development management, strategic and neighbourhood planning, public rights of way, high hedges and hazardous substances not included within the terms of reference of the Strategic Planning Committee, and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council, together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Without prejudice to the generality of the above such functions and responsibilities referred to in A2 above include but are not limited to:

In relation to Part 6 Chapter 3 and Schedule 9, 10, 11, 12 of the Localism Act 2011 to:

- g. Advice and assistance to applicants
- h. Recommendations to the Neighbourhoods Committee as to the designation of forums and areas
- i. Receive and respond to the consultation
- j. Check compliance with procedures, all relevant legislation and conformity with plans
- k. Undertaking publicity
- l. Determining content of representation at examination

## **B. Highways Transportation matters**

### **Non-Executive Functions**

1. All relevant functions and responsibilities of the Council as:

- Local Highway Authority (within the meaning of s.1 Highways Act 1980)
- Surveying Authority (within the meaning of the Wildlife and Countryside Act 1981)
- Access Authority (within the meaning of Section 1(2) of the Countryside and Rights of Way Act 2000)
- Street Authority (within the meaning of Section 49 of the New Roads and Street Works Act 1991)
- Traffic Authority (within the meaning of Section 121A of the Road Traffic

Regulation Act 1984)

- Local Housing Authority (within the meaning of Section 1 of the Housing Act 1985)
- Acquiring Authority (within the meaning of section 7(1) of the Acquisition of Land Act 1981)

relating to highways transportation, public rights of way and highways development management included within the terms of reference of the Planning Areas Sub-Committees.

- (1) Matters are referred to the relevant Planning Area Sub-Committee as specified in paragraph 3 of the General Provisions and in the following cases:
- i) where the delegated officer so decides:
    - a) with the agreement of the Chair of the relevant Planning Area Sub-Committee; or
    - b) due to the significant volume of local opinion (including through ~~District Committees or~~ Parish/Town Councils);
  - ii) where the Chair of the relevant Planning Area Sub-Committee so requests;
  - iii) where any member so requests in relation to any matter within their ward. The member shall specify in writing his/her reasons for making the request;
  - iv) where there is no majority support for the proposed action by the three ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal);
  - v) in respect of all applications for the modification of the Definitive Map and Statement under the Wildlife & Countryside Act 1981 (or any legislation revoking or re-enacting that Act with or without modification).

### **Executive Functions**

1. All relevant functions and responsibilities of the Council as:

- Local Highway Authority (within the meaning of s.1 Highways Act 1980)
- Surveying Authority (within the meaning of the Wildlife and Countryside Act 1981)
- Access Authority (within the meaning of Section 1(2) of the Countryside and Rights of Way Act 2000)
- Street Authority (within the meaning of Section 49 of the New Roads and Street Works Act 1991)
- Traffic Authority (within the meaning of section 1 of the Housing Act 1985)

- Acquiring Authority (within the meaning of Section 7(1) of the Acquisition of Land Act 1981)

relating to highways transportation, public rights of way, on and off street car parking (including enforcement) and highways development management not included within the terms of reference of the Strategic Planning Committee, and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;
- ii) Determinations relating to any proposed increases to on or off street car parking tariffs

Without prejudice to the generality of the above such functions and responsibilities referred to in B2 above include but are not limited to:

- (a) To respond to consultation requests on the highways/traffic implications of planning applications.
- (b) To prepare and publish for consultation the Local Transport Plan.

## **C. Strategic Environmental Matters**

### **Executive Functions**

All functions and responsibilities of the Council relating to the strategic direction and development of the Council's environmental strategy not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above;

## **D. Housing Strategy**

### **Executive Functions**

All functions and responsibilities of the Council relating to the strategic direction and development of the Council's housing strategy, including commissioning, not by virtue of any legislation present or future prevented from being the

responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General provisions above.

## **E. Economic & Skills Strategy**

### **Executive Functions**

All functions and responsibilities of the Council relating to the strategic direction and development of the Council's economic and skills strategy, including commissioning, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General provisions above.

## **F. Regeneration and Business Support Matters**

### **Executive Functions**

All functions and responsibilities of the Council relating to its regeneration, and business support activities and direction (including implementation of the Council's economic and skills strategy, town centre management and events, commercial estate management, regeneration projects, inward investment and the management of markets) not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General provisions above.

## **G. Building Control Matters**

### **Non-Executive Functions**

1. All functions and responsibilities of the Council relating to building control and

registration included within the terms of reference of the Licensing and Safety Committee subject to the exceptions that:

Matters are referred to the Licensing and Safety Committee or the Regulatory Panel (as appropriate) as specified in paragraph 3 of the General Provisions above, and in the following cases:

- i) Where the delegated officer so decides with the agreement of the Chair of the Licensing and Safety Committee or Regulatory Panel (as appropriate).

### **Executive Functions**

- 2. All functions and responsibilities of the Council relating to building control and registration not included within the terms of reference of the Licensing and Safety Committee, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Matters are referred to the relevant ~~Local Issues~~ District Committee in the following cases:

- i) Determinations as to the naming and re-naming of streets in the cases of dispute.

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## **H. Licensing Matters**

### **Non-Executive Functions**

- 1. All functions and responsibilities of the Council relating to Licensing included within the terms of reference of the Licensing and Safety Committee subject to the exceptions that:

Matters are referred to the Licensing and Safety Committee or the Licensing Panel (as appropriate) as specified in paragraph 3 of the General Provisions above, and in the circumstances set out in Section 10(4) of the Licensing Act 2003 and Section 154(4) of the Gambling Act 2005.

Matters are referred to the Licensing and Safety Committee or the Regulatory Panel (as appropriate) as specified in paragraph 3 of the General Provisions above

The Strategic Director of Economy and Infrastructure is authorised to discharge the following applications:

- i) Grant and renewal of a Hackney Carriage or Private Hire Drivers Licence
- ii) Suspend or revoke a Hackney Carriage or Private Hire Drivers Licence

## **I. Environmental Matters**

### **Non-Executive Functions**

1. All functions and responsibilities of the Council relating to environmental services (including environmental health, public health, environmental protection, pollution control, contaminated land, health and safety, food safety and animal welfare) and included within the terms of reference of the Licensing and Safety Committee, subject to the exceptions that:

Matters are referred to the Licensing and Safety Committees or the Regulatory Panels (as appropriate) as specified in paragraph 3 of the General Provisions above and in the following cases:

- i) Refusals to grant licences under:
  - a) Section 1 Animal Boarding Establishments Act 1963
  - b) Section 1 Breeding of Dogs Act 1973 as amended by the Breeding and Sale of Dogs (Welfare) Act 1999
  - c) The Caravan Sites and Control of Development Act 1960 as amended by the Local Government (Miscellaneous Provisions) Act 1982
  - d) Section 1 Dangerous Wild Animals Act 1976
  - e) The Performing Animals Act 1925
  - f) Section 1 Pet Animals Act 1951
  - g) Section 269 Public Health Act 1936
  - h) Section 1 Riding Establishments Act 1964 and Section 1 Riding Establishments Act 1970
  - i) The Zoo Licensing Act 1981 and the Zoo Licensing Act 1981 (Amendment) (England and Wales) Regulations 2002
- ii) Refusals to approve arrestment plant for furnaces under Section 6 Clean Air Act 1993
- iii) Refusals to approve plant for arresting grit and dust under Section 8 Clean Air Act
- iv) Refusals to grant prior approval for noise levels from construction sites under Section 61 Control of Pollution Act 1974
- v) Refusals to grant consent to exceed registered levels in noise abatement zones under Section 65 Control of Pollution Act 1974
- vi) Refusals of authorisations in respect of prescribed processes under

#### Section 6 Environmental Protection Act 1990

- vii) Revocation of authorisation for non-payment of subsistence fee under Section 8(8) Environmental Protection Act 1990
  - viii) Initial consideration of appeals against the revocation of authorisations under Section 8(8) Environmental Protection Act 1990
  - ix) Revocation of authorisation where the prescribed process has not been carried on for a period of 12 months under Section 12 Environmental Protection Act 1990
  - x) Initial consideration of appeals against the revocation of authorisations under Section 12 Environmental Protection Act 1990
  - xi) Refusals to issue permits under Part II Regulation 10 Pollution Prevention and Control (England and Wales) Regulations 2000
  - xii) Accepting the surrender of permits under Part II Regulation 19(8) Pollution Prevention and Control (England and Wales) Regulations 2000
  - xiii) Revocation of permits under part II Regulation 21 Pollution Prevention and Control (England and Wales) Regulations 2000
  - xiv) Authority to institute proceedings in the High Court under Part II Regulation 33 Pollution Prevention and Control (England and Wales) Regulations 2000
- (i) Power to require the proper maintenance of land under Section 215 of the Town & Country Planning Act 1990 (including the service of notices and authorising entry to land and premises for the purposes of inspection and to perform works in default).

#### **Executive Functions**

3. All functions and responsibilities of the Council relating to environmental services (including environmental health, public health, environmental protection, pollution control, contaminated land, health and safety, food safety and animal welfare) not included in the terms of reference of the Licensing and Safety Committee, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

## Streetscene and Housing

### J. Highways Matters

#### Non-Executive Functions

1. All functions and responsibilities of the Council as Local Highway Authority included within the terms of reference of the Planning and Highways Committee and its sub-committees (apart from public rights of way strategy and enforcement, highways transportation and highways development management) subject to the exceptions that:

Matters are referred to the Strategic Planning Committee/relevant Planning Area Sub-Committee as specified in paragraph 3 of the General Provisions above and in the following cases:

- i) Where the delegated officer so decides:
  - a) with the agreement of the Chair of the Strategic Planning Committee or Chair of the relevant Planning Area Sub-Committee (as appropriate); or
  - b) due to the significant volume of local opinion (including through Town & Valley Committees or Parish/Town Councils).
- (ii) Where the Chair of the Strategic Planning Committee or Chair of the relevant Planning Area Sub-Committee (as appropriate) so requests.
- (iii) Where any member so requests in relation to any matter within their ward. The member shall specify in writing his/her reasons for making the request.
- (iv) Where there is not majority support for the proposed action by the 3 ward members (and for the purposes of this paragraph, the non-response of any ward member shall not be treated as opposition to any proposal).

#### Executive Functions

1. All functions and responsibilities of the Council as Local Highway Authority (excluding car parking) not included within the terms of reference of the Strategic Planning Committee, not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above; and

## **K. General Streetscene Matters**

### **Executive Functions**

1. All functions and responsibilities of the Council relating to:

Refuse collection  
Waste disposal  
Street cleaning  
Centralised transport  
Parks and Grounds Maintenance  
Police Community Support Officers/Rangers  
Landscape Architects  
Dog Wardens

And not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

## **L. Bereavement Matters**

### **Executive Functions**

1. All functions and responsibilities of the Council relating to bereavement services (including cemeteries, crematoria and burial grounds) not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

## **M. Routine Enforcement Matters**

### **Non Executive Functions**

1. Power to require the proper maintenance of land under s215 of the Town and

Country Planning Act 1990 (including the service of notices and authorising entry to land and premises for the purposes of inspection and to perform works in default).

### **Executive Functions**

2. All functions and responsibilities of the Council relating to the enforcement of all legislation within the remit of the Directorate for Place including environmental protection, dog related legislation, highways, housing and town and country planning legislation (as appropriate) not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

## **N. Strategic Housing and Management of Kirklees Neighbourhood Housing**

### **Executive Functions**

1. Discharge of all functions and responsibilities of the Council, as local housing authority, that are not delegated to Kirklees Neighbourhood Housing, pursuant to an agreement with the Council under Section 27 of the Housing Act 1985, and the discharge of all functions and responsibilities of the Council relating to the management of Kirklees Neighbourhood Housing that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above; and
- (ii) Determination of applications for reimbursement of costs incurred by former tenants in building home extensions.

## **O. Physical Resources and Procurement**

### **Executive Functions**

Discharge of all functions and responsibilities of the Council relating to its Physical Resources and Procurement Service including, but not limited to:

- (a) Asset management;
- (b) Corporate Landlord;
- (c) Capital development;
- (d) Capital construction delivery;
- (e) Catering, cleaning and caretaking (Facilities Management);
- (f) Procurement;
- (g) Emergency Planning and Corporate Health & Safety; and
- (h) Building Services.

And not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above;

- (ii) Payment of disturbance payments to tenants exceeding £10,000;
- (iii) Approval of heads of terms for the disposal of any rights, estates or interests in land and property of the Council where the estimate of value exceeds £500,000;
- (iv) Approval of heads of terms for the acquisition of rights in and estates in land and property in cases where the purchase price or consideration exceeds £500,000;
- (v) Disposal of any Council interests in public or quasi open space, common land or village greens where objections to the proposed disposal have been received from members of the public; and
- (vi) Decisions to submit planning applications relating to land and property owned or to be acquired by the Council in circumstances where ward members have been consulted and have made adverse comments.

## **P Communities and Leisure**

### **Executive Functions**

1. Discharge of all functions and responsibilities of the Council relating to communities and leisure matters and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Without prejudice to the generality of the above, such functions and responsibilities referred to in P1 above include but are not limited to:

- (a) Area working and Local governance;
- (b) Consulting and engaging with communities;
- (c) Supporting partnership working and managing key partnerships;
- (d) Support and strengthening the voluntary and community sector;
- (e) Community Safety, particularly dealing with Anti-Social Behaviour and preventing violent extremism;
- (f) Sport and Physical Activity;
- (g) Arts and Creative Economy;
- (h) Events, festivals and concerts;
- (i) Museums, galleries and heritage;
- (j) Corporate Improvement Priorities; and
- (k) Policy support.



## **Service Director – Finance, Information and Transactional Services** **Director of Resources**

The holder of the post of **Service Director – Finance, Information and Transactional Services****Director of Resources** is designated as the officer responsible for the proper administration of the Council's financial affairs pursuant to s151 of the Local Government Act 1972 and is responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the **Resources** Directorate and, without prejudice to the foregoing, shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:

### **A. Strategic Financial Advice and Accounting**

#### **Non-Executive Functions**

1. All functions and responsibilities of the Council relating to strategic financial advice and accounting subject to the exceptions that:

Matters are referred to the Council and/or the Corporate Governance & Audit Committee as specified in paragraph 3 of the General Provisions.

#### **Executive Functions**

2. All functions and responsibilities of the Council relating to strategic financial advice and accounting that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Without prejudice to the generality of the above such functions and responsibilities referred to in A1 and A2 above include but are not limited to:

- (a) Strategic Finance;
- (b) Business and finance advice to directorates; and
- (c) Treasury Management.

## **B. Customer & Exchequer Services Matters**

### **Executive Functions**

1. All functions and responsibilities of the Council relating to its customer and exchequer services and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Without prejudice to the generality of the above, such functions and responsibilities referred to in B1 above include but are not limited to:

- (a) Customer Strategy;
- (b) Customer Contact (KD, KIP, LIC);
- (c) Housing Benefits;
- (d) Revenues and Income;
- (e) Advice;
- (f) Complaints; and
- (g) Town and Public Halls
- (h) Registrars' Service
- (i) Client Financial Affairs
- (j) Free School Transport
- (k) Free School Meals
- (l) Disabled Parking Badges

## ~~**C. Governance & Democratic Services Matters**~~

### ~~**Non-Executive Functions**~~

- ~~1. Discharge of all functions and responsibilities of the Council relating to governance and member relations (including elections) subject to the exceptions that:~~

~~Matters are referred to Council:~~

- ~~(i) As specified in paragraph 3 of the General Provisions above.~~

~~Matters are referred to Corporate Governance and Audit Committee:~~

- ~~(i) As specified in paragraph 3 of the General Provisions above.~~

~~Without prejudice to the generality of the above, such functions and responsibilities referred to in C1 above include but are not limited to:~~

- ~~(a) The determination (in consultation with Group Business Managers) of nominations to outside bodies in circumstances where the Council or, in default, the Corporate Governance & Audit Committee have agreed in principle to nominate representatives and the political ratios; and~~
- ~~(b) The acceptance of nominations for charitable trustees agreed by District Committees.~~

~~All such nominations will be reported for information to the Corporate Governance & Audit Committee.~~

### ~~Executive Functions~~

- ~~2. Discharge of all functions and responsibilities of the Council relating to governance, member relations and information management not by virtue of any legislation present or future prevented from being the responsibility of the Executive and not required by legislation, to be carried out by full Council together with any Local Choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:~~

~~Matters are referred to the Executive in the following cases:~~

- ~~(i) As specified in paragraph 3 of the General Provisions above.~~

## **CD. Information Technology Matters**

### **Executive Functions**

- 1. All functions and responsibilities of the Council relating to its information technology activities and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- i) As specified in paragraph 3 of the General Provisions above.

Without prejudice to the generality of the above, such functions and responsibilities referred to in D1 above include but are not limited to:

- a) IT Strategy and Change.

## **DE. Risk and Performance**

### **Non-Executive Functions**

1. All functions and responsibilities of the Council relating to risk and performance matters subject to the exceptions that:

Matters are referred to the Council and/or the Corporate Governance & Audit Committee as specified in paragraph 3 of the General Provisions.

### **Executive Functions**

2. All functions and responsibilities of the Council relating to risk and performance matters and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any Local Choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Without prejudice to the generality of the above, such functions and responsibilities referred to in E1 and E2 above include but are not limited to:

- (a) Performance;
- (b) Risk Management;
- (c) Internal Audit; and
- (d) Insurance.

## ~~Director for Communities, Transformation and Change~~

~~The holder of the post of Director for Communities, Transformation and Change is responsible for the strategic direction and overall management and delivery of the functions and responsibilities of the Communities, Transformation and Change Directorate and without prejudice to the foregoing, shall have power, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or Executive (as appropriate) and all relevant legal requirements to:~~

### ~~A. Support Services Matters~~

#### ~~Human Resources~~

#### ~~Non-Executive Functions~~

~~1. Discharge of all functions and responsibilities of the Council included within the terms of reference of the Personnel Committee (save for the appointment of staff at Service Director level and above), subject to the exceptions that:~~

~~Matters are referred to the Personnel Committee in the following cases:~~

- ~~i) As specified in paragraph 3 of the General Provisions above;~~
- ~~ii) Determinations as to the grading of posts of the Chief Executive and Strategic Directors;~~
- ~~iii) Disagreements as to employee terms and conditions between the Director of Communities, Transformation and Change (or their nominated officer) and representatives of the recognised Trade Unions that have not been resolved by the Central Negotiating Team;~~
- ~~iv) Sanctioning of compulsory redundancy proposals for directors;~~
- ~~v) Sanctioning of early retirement/voluntary severance or ill health retirement proposals for directors;~~
- ~~vi) Decisions as to the implementation of the discretionary areas of nationally negotiated agreements relating to rates of pay and terms and conditions of employment; and~~

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~~vii) Approval of all local terms and conditions of employment including discretionary holiday days.~~

~~— Matters are referred to a panel appointed by the Personnel Committee in the following cases:~~

~~— (i) Any grievance raised by the Chief Executive.~~

### ~~— Executive Functions~~

~~2. Discharge of all functions and responsibilities of the Council relating to human resources that are not included within the terms of reference of the Personnel Committee and are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:~~

~~Matters are referred to the Executive in the following cases:~~

~~(i) As specified in paragraph 3 of the General Provisions above.~~

### ~~General Service Support~~

#### ~~Executive Functions~~

~~1. Discharge of all functions and responsibilities of the Council relating to general service support including, but not limited to:~~

~~(a) Leadership, management and workforce development;~~

~~(b) Human Resources;~~

~~(c) Learning and Organisational Development;~~

~~(d) Communications and Marketing;~~

~~(e) Employee Healthcare;~~

~~(f) Payroll and Personnel;~~

~~(g) Recruitment and Temp Direct; and~~

~~(h) Pensions.~~

~~— And not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:~~

~~— Matters are referred to the Executive in the following cases:~~

~~(i) As specified in paragraph 3 of the General Provisions above.~~

## ~~B. Communities and Leisure~~

### ~~Executive Functions~~

- ~~1. Discharge of all functions and responsibilities of the Council relating to communities and leisure matters and not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:~~

~~Matters are referred to the Executive in the following cases:~~

- ~~(i) As specified in paragraph 3 of the General Provisions above.~~

~~Without prejudice to the generality of the above, such functions and responsibilities referred to in B1 above include but are not limited to:~~

- ~~(a) Area working and Local governance;~~
- ~~(b) Consulting and engaging with communities;~~
- ~~(c) Supporting partnership working and managing key partnerships;~~
- ~~(d) Support and strengthening the voluntary and community sector;~~
- ~~(e) Community Safety, particularly dealing with Anti-Social Behaviour and preventing violent extremism;~~
- ~~(f) Sport and Physical Activity;~~
- ~~(g) Arts and Creative Economy;~~
- ~~(h) Events, festivals and concerts;~~
- ~~(i) Museums, galleries and heritage;~~
- ~~(j) Corporate Improvement Priorities; and~~
- ~~(k) Policy support.~~

## **Strategic Director of Commissioning, Public Adults and Health and Adult Social Care**

The holder of the post of Strategic Director of Adults and Commissioning, Public Health and Adult Social Care is the statutory officer for Section 6 of the Local Authority Social Services Act 1970 and is responsible for the strategic direction and overall management and delivery of the local authority's functions relating to commissioning, Public Health and Adult Social Care (other than those public health functions for which the authority's Director of Public Health is directly statutorily responsible under the NHS Act 2006 (set out below), the Health and Social Care Act 2012 and related regulations) without prejudice to the foregoing, the Director shall have power, subject to compliance with the Constitution, FPRs, CPRs and approved policies of the Council or Executive (as appropriate) and all legal requirements, to discharge the functions set out below

It should be noted that the holder of the post of Director of Public Health (DPH) is the statutory officer for the purposes of Section 73A of the National Health Service Act 2006 and works within the Directorate for Commissioning, Public Health and Adult Social Care.

### **A. Public Health Matters**

#### **Executive Functions**

- a) taking appropriate steps to improve the health of the people in the authority's area<sup>7</sup>;
- b) dental public health<sup>8</sup>;
- c) joint working with the prison service<sup>9</sup>;
- d) the medical inspection of pupils and the weighing and measuring of children<sup>10</sup>;

<sup>7</sup> Section 2B of the 2006 Act. Steps that may be taken include: providing information and advice; providing services or facilities designed to promote healthy living; providing services or facilities for the prevention, diagnosis or treatment of illness; providing financial incentives to encourage individuals to adopt healthier lifestyles; providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment; providing or participating in the provision of training for persons working or seeking to work in the field of health improvement; making available the services of any person or any facilities; and providing grants or loans

<sup>8</sup> As prescribed by the Secretary of State under Section 111 of the 2006 Act

<sup>9</sup> In relation to improving the way in which the authority's functions are exercised to secure and maintain the health of prisoners – Section 249 of the 2006 Act

<sup>10</sup> Under Schedule 1 of the 2006 Act

- ~~e) — research, obtaining and analysing data or other information, and obtaining advice from persons with appropriate professional expertise<sup>11</sup>;~~
- ~~f) — planning for, or responding to, emergencies involving a risk to public health;~~
- ~~g) — co-operating with arrangements for assessing risks posed by violent or sexual offenders<sup>12</sup>~~
- ~~h) — any public health function of the Secretary of State (or functions exercisable in connection with those functions)
 
  - ~~• — which the authority is required by regulations to exercise<sup>13</sup>; or~~
  - ~~• — in respect of which arrangements have been made<sup>14</sup>;~~~~
- ~~i) — any other function prescribed by the Secretary of State as the responsibility of the Director of Public Health;~~
- ~~j) — the oversight of clinical governance arrangements;~~
- ~~k) — making representations to the licensing authority in relation to applications for the grant, variation and review of premises licences as responsible authority for public health for the purposes of the Licensing Act 2003; and~~
- ~~l) — provision of contraceptive services<sup>15</sup>.~~

~~Matters are referred to the Executive in the following cases:~~

- ~~(i) — As specified in paragraph 3 of the General Provisions above.~~

## **BA. Adult Support and Safeguarding matters**

### **Executive functions**

1. Discharge all of the functions and responsibilities of the Council relating to adult support and safeguarding matters that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive or required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

~~<sup>11</sup> For any purposes in connection with the authority's functions in relation to the health service — paragraph 13 of Schedule 1 of the 2006 Act~~

~~<sup>12</sup> Under Section 325 Criminal Justice Act 2003~~

~~<sup>13</sup> Section 6C(1) and (3) of the 2006 Act~~

~~<sup>14</sup> Under Section 7A of the 2006 Act~~

~~<sup>15</sup> Under Schedule 1 of the 2006 Act~~

Matters are referred to the Executive in the following cases:

- (q) As specified in paragraph 3 of the General Provisions above.

Without prejudice to the generality of the above, such functions and responsibilities referred to in [B4-A1](#) above include but are not limited to:

- (a) Safeguarding of adults including effectiveness of Kirklees Safeguarding Adults Board.
- (b) Implementation and management of strategies for adults and older people.
- (c) Social Care Transformation and Integration.
- (d) Partnerships for adults.

## **CB. Personalisation and Commissioning matters (Adults)**

### **Executive functions**

1. Discharge all of the functions and responsibilities of the Council relating to commissioning services for Health and Social Care that are not by virtue of any legislation present or future prevented from being the responsibility of the Executive and are not required by legislation to be carried out by full Council together with any local choice functions set out within Section A of this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

- (i) As specified in paragraph 3 of the General Provisions above.

Without prejudice to the generality of the above, such functions and responsibilities referred to in [C4-B1](#) above include, but are not limited to:

- a) Managing, developing and leading strategic commissioning for adult social care
- b) Driving Service Quality and development.
- c) Independent Review and advocacy.
- d) Cross-sector Development.
- e) Regulation and Quality.
- f) Cross-directorate Strategic Support.
- g) Strategic Partnerships and Commissioning.

## **Service Director – Legal, Governance and Commissioning**

The holder of the post of Service Director – Legal, Governance and Commissioning is designated as the Council's Monitoring Officer and is also responsible for the

strategic direction and overall management and delivery of the legal functions and responsibilities of the Legal, Governance and Monitoring Service and without prejudice to the foregoing shall have power to discharge the following functions and responsibilities, subject to compliance with the Constitution, FPRs, CPRs, approved policies of the Council or the Executive (as appropriate) and all legal requirements:

## **Legal Matters**

### **General**

These functions can be either Executive or Non-Executive depending on the circumstances.

All functions and responsibilities of the Council relating to legal matters including:

- a) to take any action necessary to give effect to a decision of the Council, the Executive, the Overview and Scrutiny Management Committee or any committee, sub-committee or panel of the Council;
- b) the making, issuing or serving of orders and notices;
- c) to institute, conduct, prosecute, defend, withdraw or settle any legal proceedings on behalf of the Council;
- d) to commence and conduct any other legal action on behalf of the Council for the purpose of protecting the Council's interests;
- e) to instruct Counsel and professional advisers, where appropriate;
- f) to determine procedural arrangements for the issue of all consents, refusals, decisions and notices on behalf of the Council under statutory powers.

### **Executive Functions**

All Executive functions and responsibilities of the Council relating to legal matters including:

- a) to give undertakings on behalf of the Council;
- b) to prepare, sign or apply the Council's common seal to documents;
- c) to authorise other officers to apply the Council's common seal in accordance with Article 14.5 of Part 2 of the Constitution and to sign documents that are not required to be under seal;
- d) to complete all property transactions and contractual arrangements where terms have been agreed by the Council, its committees or sub-committees or Directors acting under the scheme of delegation;
- e) to authorise officers who are not admitted solicitors to appear in the

Magistrates' Court on behalf of the Council pursuant to Section 223(1) of the Local Government Act 1972.

- f) To authorise officers of the Council to conduct actions on behalf of the Council in the County Court before a District Judge pursuant to Section 60 of the County Court Act 1984, in respect of:
- the recovery of possession of houses or other property belonging to the Council; and
  - the recovery of any rent, mesne profits, damages or other sum claimed by the Council in respect of the occupation by any person of such a house.
- g) to accept on behalf of the Council the service of notices, orders and legal procedures;
- h) to exercise the functions of the Council pursuant to Section 1 of the Crime and Disorder Act 1998 (Anti-Social Behaviour Orders);
- i) to determine exemptions under Section 36 of the Freedom of Information Act 2000; and
- j) to postpone the Council's statutory charge where a property is mortgaged to an approved lending institution under the Housing Act 1985, is mortgaged to another lending institution, or where a secure loan is required from the original approved lending institution or from another approved lending institution, subject in each case to consultation with the Assistant Director for Streetscene and Housing and all costs incurred by the Council in the granting of the postponement being met in full by the applicant.

## **Governance & Democratic Services Matters**

### **Non-Executive Functions**

1. Discharge of all functions and responsibilities of the Council relating to governance and member relations (including elections) subject to the exceptions that:

Matters are referred to Council:

- (i) As specified in paragraph 3 of the General Provisions above.

Matters are referred to Corporate Governance and Audit Committee:

- (i) As specified in paragraph 3 of the General Provisions above.

Without prejudice to the generality of the above, such functions and responsibilities referred to in C1 above include but are not limited to:

(a) The determination (in consultation with Group Business Managers) of nominations to outside bodies in circumstances where the Council or, in default, the Corporate Governance & Audit Committee have agreed in principle to nominate representatives and the political ratios; and

All such nominations will be reported for information to the Corporate Governance & Audit Committee.

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### **Executive Functions**

2. Discharge of all functions and responsibilities of the Council relating to governance, member relations and information management not by virtue of any legislation present or future prevented from being the responsibility of the Executive and not required by legislation, to be carried out by full Council together with any Local Choice functions set out within this Part that have been allocated to the Executive subject to the exceptions that:

Matters are referred to the Executive in the following cases:

(i) As specified in paragraph 3 of the General Provisions above.

## **Service Director – Policy, Intelligence and Public Health**

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The Serrvcie Director is the holder of the post of Director of Public Health (DPH) is the statutory officer for the purposes of Section 73A of the National Health Service Act 2006

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### **A. Public Health Matters**

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Discharge of all functions and responsibilities of the Council relating to Public health by virtue of any legislation present or future not prevented from being the responsibility of the Executive and not required by legislation, to be carried out by full Council together with any Local Choice functions set out within this Part that have been allocated to the Executive including

#### **Executive Functions**

- a) taking appropriate steps to improve the health of the people in the authority's area<sup>16.</sup><sub>1</sub>
- b) dental public health<sup>17.</sup><sub>1</sub>
- c) joint working with the prison service<sup>18.</sup><sub>1</sub>
- d) the medical inspection of pupils and the weighing and measuring of children<sup>19.</sup><sub>1</sub>
- e) research, obtaining and analysing data or other information, and obtaining advice from persons with appropriate professional expertise<sup>20.</sup><sub>1</sub>
- f) planning for, or responding to, emergencies involving a risk to public health;
- g) co-operating with arrangements for assessing risks posed by violent or sexual offenders<sup>21</sup>

<sup>16</sup> Section 2B of the 2006 Act. Steps that may be taken include: providing information and advice; providing services or facilities designed to promote healthy living; providing services or facilities for the prevention, diagnosis or treatment of illness; providing financial incentives to encourage individuals to adopt healthier lifestyles; providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment; providing or participating in the provision of training for persons working or seeking to work in the field of health improvement; making available the services of any person or any facilities; and providing grants or loans

<sup>17</sup> As prescribed by the Secretary of State under Section 111 of the 2006 Act

<sup>18</sup> In relation to improving the way in which the authority's functions are exercised to secure and maintain the health of prisoners - Section 249 of the 2006 Act

<sup>19</sup> Under Schedule 1 of the 2006 Act

<sup>20</sup> For any purposes in connection with the authority's functions in relation to the health service – paragraph 13 of Schedule 1 of the 2006 Act

<sup>21</sup> Under Section 325 Criminal Justice Act 2003

h) any public health function of the Secretary of State (or functions exercisable in connection with those functions)

- which the authority is required by regulations to exercise<sup>22</sup>; or
- in respect of which arrangements have been made<sup>23</sup>;

i) any other function prescribed by the Secretary of State as the responsibility of the Director of Public Health;

j) the oversight of clinical governance arrangements;

k) making representations to the licensing authority in relation to applications for the grant, variation and review of premises licences as responsible authority for public health for the purposes of the Licensing Act 2003; and

l) provision of contraceptive services<sup>24</sup>;

Matters are referred to the Executive in the following cases:

(i) As specified in paragraph 3 of the General Provisions above.

Approved by Annual Council 22 May 2013

<sup>22</sup> Section 6C(1) and (3) of the 2006 Act

<sup>23</sup> Under Section 7A of the 2006 Act

<sup>24</sup> Under Schedule 1 of the 2006 Act

