

# Cabinet

**9 November 2015**

**Present:** N Redfearn (Elected Mayor) (in the Chair)  
Councillors EN Darke, R Glindon, IR Grayson, JLL Harrison,  
CB Pickard, L Spillard, JJ Stirling and A Waggott-Fairley.

**In Attendance:** M Almond (Voluntary and Community Sector)  
A Armstrong (Young Mayor)  
D Bavaird (Business Sector)  
M Cushlow (North Tyneside Clinical Commissioning Group)  
R Layton (North Tyneside JTUC)

## **CAB63/11/15 Apologies**

Apologies were received from Councillor CA Burdis, A Caldwell (Age UK North Tyneside) and S Stavers (Northumbria Police).

## **CAB64/11/15 Declarations of Interest and Dispensations**

Councillor EN Darke declared a registerable personal interest in the item on Schools Finance (Minute CAB68/11/15), as he was a Governor of two schools in the Borough. A dispensation had been granted in relation to this interest.

## **CAB65/11/15 Minutes**

**Resolved** that the Minutes of the meeting held on 14 September 2015 be confirmed and signed by the Chair.

## **CAB66/11/15 Report of the Young Mayor**

The Young Mayor reported on the following activities in which she and/or Young Cabinet Members had been involved:

- Involvement in Local Democracy week events in October, which had included a Young People's Question Time;
- A day of workshops with school councillors from 12 primary schools taking part in activities around British Values.
- Youth Council Annual Debate. The three topics discussed were A Curriculum to Prepare Us for Life, Tackling Racist and Religious Discrimination and Improving Public Transport. It was agreed that Curriculum for Life would be the chosen topic to be promoted in the next local campaign.
- The Young Cabinet Member for Ready for Work and Life had attended the Economic Prosperity Sub Committee to give a young person's perspective on the recruitment of apprentices.
- Prize giving at the North Tyneside in Bloom evening.
- Attendance at the Remembrance Day Parade and Service at the War Memorial in Whitley Bay. The Young Mayor had been proud to take part and continue this important tradition.

Some Youth Councillors had worked with the Street Pastors to produce a poster showing what they did. The Youth Councillors had been successful in gaining funding to support this work through O2. Posters had been sent out to schools, leisure centres and youth centres. The Street Pastors were keen to work with youth councillors on the further promotion of their service to both younger and older residents.

The Young Mayor was thanked for her report. The Young Mayor and Youth Councillors were commended for the work they were doing and their involvement in various initiatives.

### **CAB67/11/15 2015/16 Financial Management Report to 30 September 2015 (All Wards)**

Cabinet considered a report detailing the budget monitoring position as at 30 September 2015, including forecast outturn positions for 2015/16 for the General Fund, the Housing Revenue Account (HRA), School Finances and the Investment Plan, including a summary of projects to be delivered in 2015/16. The report also provided an update on the Authority's 'Creating A Brighter Future' Programme. In addition, it also gave the current position in respect of Treasury Management and Prudential Indicators.

As at 30 September 2015, the forecast year-end position for the General Fund Revenue Account was a pressure of £1.570m, which reflected an improvement of £0.431m since the report considered at the 14 September 2015 meeting.

The HRA was forecast to have year-end balances at 31 March 2016 of £3.285m, which was £0.615m higher than budget. The higher than forecast balances were mainly as a result of higher opening balances due to the impact of previous years' financial performance (£0.422m). The forecast in-year surplus was an estimated £0.193m.

The report included an update in respect of work in progress with regard to 2015/16 school funding.

The Investment Plan for 2015-19, adjusted for reprogramming and variations approved by Cabinet, was £251.715m. Reprogramming of £19.836m for 2015/16 and variations of £2.175m credit in 2015/16 and £0.680m in 2016/17 were proposed in the report. The report also set out planned delivery for 2015/16.

Concerns were expressed about the impact the £0.774m reduction in public health grant income to North Tyneside would have on the Authority's initiatives to improve public health, particularly with regard to prevention strategies.

Cabinet considered the following decision options: either to agree the recommendations as set out in section 1.2 of the report, or alternatively to disagree with the proposals.

**Resolved** that (1) the budget monitoring position, as at 30 September 2015, be noted; (2) the receipt of new revenue grants, set out in the report, be approved; (3) the level of spend on the Investment Plan, as at 30 September 2015, be noted; (4) the reprogramming of £19.836m to the 2015/16 Investment Plan and variations of £1.495m credit (£2.175m credit in 2015/16 and £0.680m in 2016/17), be approved; and (5) the current Treasury Management and Prudential Indicators position be noted.

(Reason for Decision – It is important that Cabinet continues to monitor performance against the budget, especially given the current level of financial pressures faced by the public sector.)

### **CAB68/11/15 Schools Finance (All Wards)**

Cabinet considered a report which detailed the financial position of North Tyneside's schools and provided an overview of the variations to the Authority's Local Funding Formula for Schools for the financial year 2016/17.

During 2014/15 overall maintained school balances in North Tyneside had increased from £6.647m at 31 March 2014 to £7.637m at 31 March 2015.

Total maintained school balances did not include those of Academy schools. In addition, Moorbridge Pupil Referral Unit was now classified as a school and had appeared for the first time in the March 2015 balances.

The balances reported nationally included committed balances, i.e. amounts the school had committed to spend on specific projects. The actual balances for forward planning purposes were normally lower, as they included elements that the school planned to spend in future periods. Details were given in Appendix 2 of the report as Uncommitted Balances. However, unless stated otherwise in the report, the balances referred to in the report were the total school balances.

The increase in overall maintained school balances continued the long term trend of rising balances in North Tyneside for over ten years. Up to 2013 balances as a percentage of planned budgets remained lower in North Tyneside compared to both the regional and national comparator groups, but with the long term trend demonstrating a narrowing of the gap. Details were given in Appendix 1 of the report, with the last two years of data for North Tyneside schools added.

Whilst the increased level of balances in North Tyneside schools was positive in terms of financial sustainability, this position was significantly different to that predicted at the start of the financial year when schools submitted their budget plans. In the May 2014 budget submission, balances had been forecast to be in the region of £2m. Schools had been reminded of the need to forecast as accurately as possible, so that decisions were taken in light of accurate budget projections.

As at 31 March 2015 there were four schools in deficit. This compared with five schools with deficits at 31 March 2014, seven schools at March 2013, five schools at March 2012, 11 schools at March 2011 and 16 schools at March 2010. Although the number of schools with a deficit had fallen, the total balance of those schools with deficits had increased to £0.580m.

The Authority had held a school excess surplus balances policy since March 2007. Whilst it was no longer a mandatory requirement of the DfE, in September 2012 the School Forum had agreed to maintain the excess surplus balances policy, with minor updates agreed at its meeting in September 2015.

Excess balances were those uncommitted balances over 5% for middle and secondary schools and over 8% for first, primary and special schools. As at 31 March 2015 there were no schools in North Tyneside considered as having an excess surplus balance. In consultation with the School Forum it had been agreed that there would be no claw back of funds from schools in 2015/16.

An extract of the Section 251 return detailing individual North Tyneside maintained school balances at 31 March 2015 had been included as Appendix 2 of the report.

Maintained mainstream schools had received their individual budget share (delegated budget) from the Local Authority by the 31 January 2015 deadline and had submitted their three year revenue budget plans (starting with 2015/16) by 31 May 2015 as required.

Six schools had requested deficit approval for 2015/16 budgets, an increase of two schools and requesting significantly higher balances (£2.621m compared to £1.480m in the previous year). The Finance Team, supported by School Improvement and the North Tyneside School Forum, had met with these schools from June to August, providing both challenge and support to each of their budget plans, in order to determine if they could be granted a deficit budget for 2015/16. Deficit approval did not constitute a commitment to provide additional funding over the school's individual budget share, only a recognition that the school needed to temporarily enter into deficit, whilst continuing to balance its financial position over the longer period.

Following this process, four schools had received deficit approval for 2015/16 and two schools had received provisional approval, subject to additional work that had been requested and should be concluded later in the current term. The current level of approved and provisional deficits was £2.518m.

In view of the significant increase in the overall value of the deficits approved, several of the schools, as part of their deficit approval agreement, would be subject to additional scrutiny from Finance, Schools Improvement and Schools Forum.

Five of the six schools seeking formal deficit approval for the current financial year were secondary schools. The work progressed as part of the Education Review had identified that as a consequence of the current surplus capacity and, in the case of specific post-16 pressures, some secondary schools would face a deficit position that would become unsustainable unless action was taken. The challenge in going forward was to find a sustainable solution that worked across the Borough.

Members had been kept informed regarding the position on 2015/16 schools funding through the Financial Management reports to Cabinet every two months.

Officers had been in discussion with North Tyneside Schools Forum regarding the 2016/17 mainstream funding formula. Following a consultation with all schools in North Tyneside, and further discussion with the Schools Forum, the factors to be used in the funding formula for 2016/17 had been confirmed and would be notified to the Education Funding Agency (EFA) by the end of October.

Consultation was underway for early years and high needs funding allocations. Whilst there were changes proposed to refine the allocation of funding, there were no significant changes to the basis of funding across the Borough.

The Schools Forum would also be considering certain elements of funding that were held centrally within the funding allocations which would be applied to benefit pupils across the Borough.

The key dates which had to be met in setting 2016/17 school budgets were detailed in the report. Members would be updated through the Financial Management reports to Cabinet.

Cabinet considered the following decision options: either to agree to fund schools for 2016/17 in line with the proposals outlined in section 1.2(2) of the report, or alternatively to disagree with those proposals.

**Resolved** that (1) the change in school balances as detailed in the report, be noted; and (2) the Head of Commissioning and Investment and the Head of Finance, in consultation with the Cabinet Member for Children, Young People and Learning, be authorised to undertake resource allocations to schools for 2016/17 in line with the school funding arrangements set out in the report.

(Reason for decision - the proposal is compliant with the required DfE guidance and legislation and has been subject to consultation with the Schools Forum as well as all schools in the Borough.)

### **CAB69/11/15 Annual Review of Council Policy on Covert Surveillance (Previous Minute CAB149/03/15) (All Wards)**

Cabinet considered a report which sought approval of an updated Covert Surveillance Policy. In accordance with the Codes of Practice applying to the Regulation of Investigatory Powers Act 2000 (RIPA) the Council Policy should be reviewed annually. A copy of the revised draft Policy was attached at Appendix 1 of the report.

The draft Policy had been considered by the Regulation and Review Committee and no amendments to the Policy had been suggested.

The aims of the Authority's Policy were to:

- Set out the Authority's arrangements for complying with RIPA; the relevant Codes of Practice and guidance issued by the Home Office; and guidance from the Office of the Surveillance Commissioner (OSC) and the Interception of Communications Commissioner's Office (IOCCO);
- Give effect to the rights of citizens to respect for their private and family lives (pursuant to the Human Rights Act 1998); and
- Protect the Authority from legal challenge when undertaking surveillance.

The Regulation of Investigatory Powers Act 2000 (RIPA) put covert surveillance on a statutory basis. RIPA enabled certain public authorities to carry out surveillance operations with statutory protection from legal challenge. It was often referred to as the "RIPA shield".

The report detailed the three covert investigatory techniques available to local authorities under RIPA.

The RIPA provisions could only be used to authorise surveillance activities in order to detect and prevent serious crime and any authorisation was subject to a requirement to seek authorisation from an 'Authorising Officer' and to obtaining judicial approval from the Magistrates' Court before any surveillance was undertaken. All authorisations would be subject to an internal scrutiny process prior to being submitted for judicial approval.

Local authorities could undertake surveillance for other purposes but such surveillance would not benefit from the RIPA shield and would leave a local authority more vulnerable to challenge. For this reason all surveillance activity undertaken by the Authority, whether inside or outside of the RIPA regime, had to be appropriately authorised by one of the Authorising Officers and was subject to central monitoring and challenge.

The application of the requirements of RIPA to the use of informants via, in particular, social media was a developing area of surveillance law. Social Media provided the opportunity for the Authority to monitor for example individual rogue traders who traded on-line in the context of trading standards investigations. The continued monitoring of the activities of an individual or the development of a relationship with a trader with the purpose of eliciting information from the trader may fall within the RIPA regime.

Officers were considering how such activities should actually be undertaken and whether those activities went as far as requiring a RIPA authorisation.

The most recent OSC guidance did provide some limited guidance on this matter and referred to the implications of interference through such activities with an individual's rights to a private and family life under Article 8 of the Human Rights Act 1998.

The Authority may undertake such surveillance for activities that could not benefit from the protection of the RIPA shield i.e. the activity being investigated would not meet the serious crime test for example in child protection. Such surveillance may simply be the monitoring of entries on social media (e.g. Facebook). In these circumstances whilst the surveillance was not unlawful it would leave a local authority more vulnerable to challenge as it still entailed the collection of information about an individual. For this reason the Authority required that all surveillance activity undertaken by the Authority outside of the RIPA regime must be appropriately authorised by one of the Authorising Officers and was subject to central monitoring.

Further information had been provided to Heads of Service to raise awareness of RIPA, the circumstances when a RIPA authorisation was necessary and those circumstances where surveillance activity outside of the RIPA regime must still be appropriately authorised.

The Authority had a Central Register of all RIPA and non-RIPA surveillance activity, which was held and monitored by the Head of Law and Governance.

The report detailed the following:

- the RIPA inspection process and issues that had been identified following the North Tyneside inspection by the OSC in April 2013 and actions implemented to address those issues;
- a summary of use of surveillance, acquisition of communications data and covert human intelligence source provisions
- corporate responsibilities of the Authority in relation to RIPA;
- compliance with and oversight of the Authority's policy;
- the use of closed circuit television systems (CCTV) by the Authority.

Cabinet considered the following decision options: either to approve the Authority's policy on covert surveillance and note the use of surveillance by the Authority in the preceding year, or alternatively ask officers to revise the draft Policy and/or provide additional information regarding any matters contained in the report.

**Resolved** that (1) the Authority's draft policy on covert surveillance, attached as Appendix 1 to the report, be approved; and  
(2) the use of surveillance by the Authority in the preceding year be noted.

(Reason for decision – it will secure adherence to the recommended best practice contained within the Codes of Practice. In particular, the Code of Practice – Covert Surveillance and Property Interference indicates that elected members should review the Authority's use of Part II of the Regulation of Investigatory Powers Act 2000 and set the policy at least once a year.)

### **CAB70/11/15 Newcastle and North Tyneside Local Improvement Finance Trust (LIFTco) (Weetslade, Valley and Whitley Bay Wards)**

Cabinet considered a report which requested the Authority, as a shareholder of the Newcastle and North Tyneside LIFT company (NNT LIFTco), to agree to the following matters:

- I. to change the Debt/Equity Ratio requirement in the Tranche 1 Credit Agreement between NNT LIFTco and Barclays Bank (the lender) from 90:10 to 92:8. This proposal would align the Debt/Equity Ratio with the Credit Agreement which covered Tranches 2a, 2b and 2c;
- II. approval of Sub Debt Capital Repayment of £0.700m to be paid to Elgin Lift Limited in November 2015; and
- III. the insertion of a new clause in the Credit Agreement which would oblige the Company to send the Condition Surveys required under the Estate Management Contract directly to the Lender (Barclays Bank). There was already an obligation for the Company to send this information to the Lenders Technical Adviser, however there was currently not an active Technical Adviser in place as they were only used as and when required.

The above matters had already been approved by the NNT LIFTco Board (of which North Tyneside Council was a member) and were all subject to Shareholder Consent.

Cabinet considered the following decision options: either to approve the recommendations as set out in section 1.2 of the report or alternatively not approve the recommendations and request Officers to undertake further work on the arrangements associated with NNT LIFTco.

**Resolved** that (1) the proposals, detailed at I, II & III above, be approved and the Head of Finance, in consultation with the Cabinet Member for Finance and Resources and Head of Law and Governance, be authorised to conclude all matters associated with the proposals as necessary; and

(2) the Head of Finance, in consultation with the Head of Law and Governance, the Elected Mayor and the Cabinet Member for Finance and Resources, be authorised to determine any future matters that may arise associated with the NNT LIFTco requiring formal Shareholder Consent.

(Reason for decision - there will be no impact on North Tyneside Council. In addition, Newcastle City Council, as the other Local Authority Public Sector Shareholder, has already considered the matter and agreed to the proposed amendments.)

### **CAB71/11/15 Joint Archives and Museums Service – New Joint Agreement (All Ward)**

A report was considered requesting approval for the adoption of the revised Joint Agreement to deliver archives and museums services for the 2014/15 and 2015/16 municipal years.

Following Sunderland City Council's withdrawal from the Joint Agreement on 1 April 2013, the four remaining Tyne and Wear local authorities had drawn up a new, one-year, Joint Agreement which reflected this change and allowed them sufficient time to assess the impact and implications of the new circumstances. That Agreement had expired at the end of March 2014.

During 2013/14 the Joint Service and the Joint Committee had appraised the options available and had agreed that a wider review of the governance would be beneficial. The review had concluded in the autumn of 2014. Two options had been considered viable and members of the Joint Committee had requested further detailed costings from the pension fund actuaries for the second of the two options. That information was still awaited before the Joint Committee could consider the options further.

In the meantime the difficult financial environment in which all the authorities were by then operating had occasioned reviews in each authority of the scope and extent of the cultural services they would be able to provide in future, and the mechanisms by which they would be provided. South Tyneside Council had given formal notice that it might withdraw from the Joint Committee. That Notice was renewed at the beginning of the 2015/16.

The uncertainty occasioned by the governance review and the internal reviews in each of the local authorities had mitigated against the signing of a new Joint Agreement before the start of the period covered by the Agreement (April 2014). That uncertainty had continued throughout the last eighteen months. However, no further significant changes were anticipated before the end of the 2015/16 financial year and the four authorities could now sign the Agreement without any addition to their existing risk.

Ongoing support for the Joint Agreement would ensure that existing funding arrangements through Arts Council England remained in place. Tyne and Wear Archives and Museums continued to run an excellent service despite the turbulence in the environment in which it operated.

Key Performance Indicators for the existing period and for a further two years to come had been agreed with its current stakeholders, including Arts Council England, its principal funder and included in its business plan which had been agreed by, the Joint Committee at its most recent meeting on 30 June 2015.

A new Joint Agreement, dating from 1 April 2016, would be drawn up during the coming months, taking account of all the information available and the changing circumstances of the individual authorities.

In the event that it was incomplete at 31 March 2016, the remaining authorities would continue to operate as though an Agreement had been signed, as they had done for the last year and a half. Notice from South Tyneside that it may withdraw from the Joint Committee and the Joint Agreement on 31 March 2016 remained in place.

Cabinet considered the following decision options: either to approve the recommendations as detailed at Section 1.2 of the report, or alternatively not approve the recommendations and request officers to undertake further discussion with the other members of the Joint Committee in relation to the operation of the Tyne and Wear Archives and Museums Service.

**Resolved** that the Head of Environment, Housing and Leisure, in consultation with the Cabinet Member for Leisure, Culture and Tourism and the Head of Law and Governance, be authorised to approve the terms and complete the proposed Joint Agreement for the Joint Archives and Museums Service for the 2014/15 and 2015/16 municipal years.

(Reason for decision - Ongoing support for the Joint Agreement will ensure that existing funding arrangements through Arts Council England remain in place.)

### **CAB72/11/15 Three Year review of North Tyneside Council Statement of Licensing (Gambling) Policy (All Wards)**

Cabinet considered a report which outlined the final proposals in relation to the draft Statement of Licensing (Gambling) Policy and requested approval to present the Policy to Council on 19 November 2015 for agreement, in accordance with the Authority's Budget and Policy Framework Procedure Rules.

The report outlined the requirements of the Gambling Act 2005 and drew attention to the following three licensing objectives laid down by the Act which were required to be promoted in administration of the Act by both the Commission and Licensing Authorities:-

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The initial Policy had come into force on 31 January 2007 and had been reviewed and where necessary amended every three years thereafter.

The revised Statement of Licensing Policy (Gambling) had to be in force by 31 January 2016 when the existing policy would expire.

The draft revised Statement of Licensing Policy (Gambling), Appendix 1 of the report, contained the information that regulations prescribed should be included in the policy document and regard had been given to the Commission's statutory guidance and the Regulations issued in order to assist Licensing Authorities in the preparation of their policy statements. A summary of the amendments made to the draft policy were attached as Appendix 2 of the report.

The Authority did not have the authority from the Secretary of State to issue Casino Premises Licences. Section 175 of the Act limited the overall numbers of types of casinos that would be permitted in Great Britain and until such time as the current limit on the number of casinos was increased, no further Casino Premises Licences would be issued.

In any event, Council on 29 November 2012 had passed a 'no casino' resolution which meant that the Authority would not grant any Casino Premises Licences in the Borough if it was given the power to do so. This resolution remained in place for the duration of the Policy.

The decision whether or not to pass a further 'no casino' resolution formed part of the consultation process concerning the revision of the Licensing Policy. If it was proposed by Cabinet that a further 'no casino' resolution should be made, that would be a matter for full Council. If Council passed a 'no casino' resolution, then it would bind the Authority for a further three years (unless another resolution was passed in the interim) and would prohibit the Authority from issuing Casino Premises Licences in that period.

The Overview, Scrutiny and Policy Development Committee, at its meeting on 5 October 2015, had recommended that Council should pass a further 'no casino' resolution.

The draft revised Policy Statement had been subject to a 12 week period of public consultation between May and August 2015. A list of the extensive number of consultees would appear in the policy document.

The draft revised Policy Statement, once approved, had to be published at least 4 weeks before it came into force on 31 January 2016 and be made available for inspection on the Authority's website, at public libraries and at Quadrant. Before the Policy came into effect the Authority had to advertise the publication of the Policy Statement by publishing a public notice on the Authority's website and in a local newspaper indicating when the policy would be published and when it would come into force.

20 responses had been received to this consultation exercise from a mixture of residents, residents' associations, church associations and members and the gambling trade. A Member Working Group had met in September 2015 to consider the consultation responses and to make recommendations. Each response had been considered by the working group.

Where the group recommended amendments to the policy officers had amended the draft policy accordingly. A summary of the responses received and the amendments made were detailed in Appendix 3 to the report.

Cabinet considered the following decision options: either to approve the recommendations as detailed at Section 1.2 of the report, or alternatively not approve the recommendations.

**Resolved** that (1) the final proposals in connection with the formulation and approval of the draft revised Statement of Licensing Policy (Gambling), including the 'no casino resolution', attached as Appendix 1 to the report, be endorsed; and (2) the draft Statement of Licensing Policy (Gambling) be referred to Council for consideration on 19 November 2015.

(Reason for decision - The revised draft Policy has been developed over many months by licensing officers working closely with Legal Services. The Policy contains the information required by legislation and the Gambling Commission. It has been subject to extensive consultation involving, in addition to members of the public, all North Tyneside MPs, MEPs and Councillors. All consultees were given the opportunity of providing feedback and comments on the draft Policy up to 10 August 2015.)

### **CAB73/11/15 Review of the Authority's Statement of Enforcement Policy (All Wards)**

Cabinet considered a report which outlined the initial proposals regarding the formulation and subsequent formal approval of the Authority's Statement of Enforcement Policy.

On 6 April 2014 the Regulators' Code had come into effect. Regulators had a statutory duty to have regard to the Code. The Code required that Enforcement Policies were updated to reflect the new requirements of the Code and with this in mind the Authority was to consult on a revised Statement of Enforcement Policy.

The current North Tyneside Council Statement of Enforcement Policy had been approved in 2009. It underpinned all investigations undertaken by the Authority under statutory regulatory services or non-statutory enforcement functions and prosecution proceedings throughout the Authority. This 'umbrella' policy was a far-reaching document with implications upon large areas of the Authority's work.

The Policy reflected the shift in focus of regulatory enforcement actions to a more targeted, risk based and proportionate approach.

Paragraph 12.4 of the current policy indicated that the Policy would be reviewed internally every three years with additional reviews if required to reflect any changes in legislation and guidance. An internal review of the Policy had been undertaken in March 2011, when it had been considered to be still fit for purpose. A formal review of the policy was now required.

An initial desktop review and consultation with managers had taken place. Some changes in legislation had been identified and there had been a small number of minor amendments to the Policy, however the main amendment had been the inclusion of the need to have regard to the Regulators' Code.

An up to date policy would provide a consistent, fair and equitable regime of enforcement for residents, employees, voluntary organisations and businesses in North Tyneside. It should underpin all investigations and actions taken by the Authority under statutory regulatory services or non-statutory enforcement functions. This should ensure all investigations and proceedings would be approached in a consistent manner, were proportionate to the risk identified and robust enough to withstand challenge in any legal proceedings.

The draft revised Policy statement would be subject to a 12 week period of Borough wide public consultation to include residents and local businesses. It would begin on 7 December 2015 and end on 29 February 2016. A list of the consultees would appear in the Policy document.

At the conclusion of the consultation exercise the policy would be amended to take account of any relevant consultation responses before being brought back to Cabinet to be formally adopted on behalf of the Authority.

Cabinet considered the following decision options: either to approve the recommendations as detailed at Section 1.2 of the report, or alternatively not approve the recommendations.

**Resolved** that (1) the draft revised Statement of Enforcement Policy, attached as Appendix 1 to the report, be approved;  
(2) the commencement of a 12 week consultation exercise on the draft revised Statement of Enforcement Policy be approved; and  
(3) a further report be submitted to Cabinet at the conclusion of the consultation exercise detailing the responses received and enclosing a final draft of the Statement of Enforcement Policy for approval taking into account, where appropriate, the consultation responses.

(Reason for decision – It will ensure that the Authority’s Statement of Enforcement Policy reflects recent legislative changes and incorporates the need to have regard to the Regulators’ Code and to amend the draft Statement of Policy where appropriate following a consultation exercise. If the Policy is not amended as suggested then it may be liable to successful challenge. The revised Policy will promote a consistent approach to enforcement and ensure that all Service Areas involved in enforcement are complying with its principles.)

### **CAB74/11/15 Illegal Money Lending Project (Previous Minute CAB179/04/11) (All Wards)**

Cabinet considered a report which requested approval to re-enter into an arrangement to enable and authorise Birmingham City Council to investigate and institute proceedings against illegal money lenders operating within the Borough of North Tyneside.

In April 2011 Cabinet had approved the delegation of the Authority’s enforcement functions under Part III of the Consumer Credit Act 1974 to Birmingham City Council to enable it to undertake enforcement within the Borough of North Tyneside. It had also delegated the power of prosecution to Birmingham City Council for any matters associated with or discovered during an investigation involving Part III of the Act.

Part of the agreed arrangements was to enter into a protocol to facilitate the delegation of powers to Birmingham City Council. This protocol also detailed how investigations would be carried out. The protocol had now expired and it was necessary to enter into a new protocol to facilitate the further delegation of powers proposed by this report.

The new protocol had been prepared to reflect changes in legislation and the fact that responsibility for the oversight of the legislation now lay with the Financial Conduct Authority.

Illegal money lending covered a range of activities, from persons that were actually licensed but acting unlawfully, to the extreme of a person offering cash loans without being licensed at all (Loan Sharks).

An Illegal Money Lending Team had been established within Birmingham City Council Trading Standards as a pilot project in England, one of only two in Great Britain. The remit of the team was to investigate illegal money lending activity, establish if a problem existed and, if so, bring to justice those persons carrying on this activity. The team was made up of highly experienced investigators with a broad range of backgrounds and investigative skills.

Research, funded by the Department of Business Innovation and Skills (BIS) and using information gathered by the Birmingham pilot project, had been published which identified the extent of this type of activity as well as the reasons that people used illegal money lenders. Funding for the project was provided from the Financial Inclusion Fund administered by the Treasury and managed by the National Trading Standards Board.

The England team was hosted by Birmingham City Council and continued to provide a resource to investigate illegal money lending across England. The team, although based in Birmingham, continued to operate the “parachute in and out model”, with a local presence through regional officers.

The benefit that this team brought to North Tyneside was significant. North Tyneside Trading Standards, like most local authorities, was not able to provide the level of specialist resource to provide this function. This was an excellent example of how sharing resources on specific issues could bring benefits otherwise unavailable in providing support to vulnerable consumers and tackling rogues.

The report detailed key statistics for the national project up to March 2015.

In addition to exceeding the expectations of the Government the project had also achieved significant added value, including partnership working with the Police, the Department for Work and Pensions, Post Office Counter Fraud Unit, HM Revenue and Customs to facilitate a coordinated approach to tackling crime and disorder.

Since 2011 two investigations had been carried out in North Tyneside relating to illegal money lending. Whilst no formal action had been taken against the illegal money lenders, they had ceased their activities. The families targeted by the moneylenders had been given appropriate financial advice and assistance. They had been introduced to Credit Unions as an alternative means to borrowing money. In the last 6 months a number of training sessions with staff working in the Sure Start Centres in North Tyneside had taken place informing them of the financial assistance available to them.

The objectives of the project were set out in an appendix to the report.

In order to continue the scheme in North Tyneside, Birmingham City Council required formal delegation of functions to carry out the investigations etc under the Act and to prosecute any matters in the area. It was proposed that the delegation would continue until 31 March 2018 with a view to extending the arrangement if successful.

In order to ensure clarity in respect of the operation of these arrangements, a draft protocol had been devised. The protocol was attached as Appendix 2 to the report and set out the processes and practices to enable Birmingham City Council and its officers to undertake investigations and legal procedures.

This Authority could withdraw the delegated power given to Birmingham City Council at any time although the Protocol stated that there should be a ‘good reason’ for any withdrawal.

Cabinet considered the following decision options:

Option 1 – note the existence of the additional enforcement resource provided through the national Illegal Money Lending Project and to agree to delegate the enforcement functions set out in Part III of the Consumer Credit Act 1974 to Birmingham City Council and authorise the Head of Environment, Housing and Leisure to enter into the Protocol detailed in the report after appropriate consultation.

Option 2 – note the existence of the additional enforcement resource provided through the national Illegal Money Lending Project and to reject the recommendations to delegate the functions set out in Part III of the Consumer Credit Act 1974 to Birmingham City Council.

Option 3 – refer any of the matters arising in the report back to officers for further consideration.

**Resolved** that (1) the Authority's enforcement functions, as a local weights and measures authority, under Part III of the Consumer Credit Act 1974, be delegated to Birmingham City Council to undertake enforcement activities within the Borough of North Tyneside; (2) the Authority's powers of prosecution under Part III of the Consumer Credit Act 1974, be delegated to Birmingham City Council for any matters associated with or discovered during the enforcement activities detailed above; and (3) the Head of Environment, Housing and Leisure, in consultation with the Head of Finance, the Head of Law and Governance, the Cabinet Member for Finance and Resources and the Cabinet Member for Housing and Transport, be authorised to re-enter into a protocol with Birmingham City Council for the enforcement of Part III of the Consumer Credit Act 1974, and to deal with all ancillary matters consistent with the above resolutions.

(Reason for decision - The proposal seeks to continue to add to the Authority's resources and will enable North Tyneside Council's Trading Standards Service to have access to a team of highly trained experts from the Illegal Money Lending Team.

This area of law enforcement requires specialist resource, expertise, techniques and facilities which the Authority's Trading Standards Service would not otherwise have ready and available access to.)

### **CAB75/11/15 Exclusion Resolution**

**Resolved** that under Section 100A (4) of the Local Government Act 1972 (as amended) and having applied a public interest test as defined in Part 3 of Schedule 12A of the Act, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act.

### **CAB76/11/15 Swans Update (Previous Minute CAB18/06/14) (Wallsend Ward)**

Cabinet considered a report which requested approval for the Authority to enter into a reciprocal agreement with its developer partner in respect of a Regional Growth Fund grant and to also extend the dredging contract to allow an additional berth to be dredged largely funded via the funding allocated for acquiring the joint venture interest in Swans from the Homes and Communities Agency.

Amended recommendations were circulated at the meeting.

Cabinet considered the following decision options:

Option 1 – (i) Authorise the Head of Law and Governance, in consultation with the Deputy Mayor, Cabinet Member for Finance and Resources and Head of Finance, to enter into a reciprocal agreement with the Authority’s developer partner for the £1.9m Regional Growth Fund grant, to be used exclusively to fund additional site costs at the Swans site; (ii) Authorise the Head of Business and Economic Development in consultation with the Deputy Mayor, Cabinet Member for Finance and Resources, Head of Law and Governance and the Head of Finance to negotiate a variation of the Contract with Land and Water Services to vary the current tendered contract to accommodate the additional dredging as set out in this report; and (iii) Authorise the Head of Law and Governance, in consultation with the Head of Business and Economic Development, to enter into the variation of contract negotiated in accordance with the above.

Option 2 – (i) Authorise the Head of Law and Governance, in consultation with the Deputy Mayor, Cabinet Member for Finance and Resources and Head of Finance, to enter into a reciprocal agreement with the Authority’s development partner for the £1.9m Regional Growth Fund grant, to be used exclusively to fund additional site costs at Swans; and, (ii) That the authority does not authorise the variation to the current tendered contract with Land and Water Services to accommodate the additional dredge.

Option 3 – (i) That the Authority does not enter into a reciprocal funding agreement with its development partner in relation to the £1.9m RGF investment in Swans; (ii) Authorise the Head of Law and Governance, in consultation with the Deputy Mayor, Cabinet Member for Finance and Resources, Head of Business and Economic Development and the Head of Finance to negotiate variation of the Contract with Land and Water Services to vary the current tendered contract to accommodate the additional dredging as set out in this report; and (iii) Authorise the Head of Law and Governance, in consultation with the Head of Business and Economic Development, to enter into the variation of contract negotiated in accordance with the above.

Option 4 – (i) That the Authority does not enter into a reciprocal funding agreement with its development partner in relation to the £1.9m RGF investment in Swans; and, (ii) That the authority does not authorise the variation to the current tendered contract with Land and Water Services to accommodate the additional dredge.

**Resolved** that (1) the Head of Law and Governance, in consultation with the Deputy Mayor, the Cabinet Member for Finance and Resources and the Head of Finance, be authorised to enter into a reciprocal agreement with the Authority’s development partner for the £1.9m Regional Growth Fund grant to be used exclusively to fund additional site costs at the Swans site;

(2) the Head of Business and Economic Development, in consultation with the Deputy Mayor, the Cabinet Member for Finance and Resources, the Head of Law and Governance and the Head of Finance, be authorised to negotiate a variation of the Contract with Land and Water Services to vary the current tendered contract to accommodate the additional dredging detailed in the report; and

(3) the Head of Law and Governance, in consultation with the Head of Business and Economic Development, be authorised to enter into the variation of contract negotiated in accordance with the above.

(Reason for decision - Entering into a reciprocal agreement secures an additional £1.9m grant into Swans that removes a number of ‘abnormal costs’ that are currently adversely affecting rental levels for potential end users. This will make the Swans site more attractive to the market and reduce the need for alternative funding options previously proposed by the development partner.

Completing these works while the oil and gas sector is depressed will also be an important factor in taking full advantage of a recovery in this sector, expected during 2016. Completing an additional dredged pocket will significantly increase the flexibility and attractiveness of the Swans site to end users. This will be an important factor in attracting new businesses to the site.)

**CAB77/11/15 Annitsford Farm Disposal – Update (Previous Minute CAB145/12/12) (Weetslade and Camperdown Wards)**

Cabinet considered a report detailing the results of the viability assessment on the Annitsford Farm site previously declared as surplus to the Authority's requirements, and feedback from the soft market testing to explore options for bringing the whole or part of the site forward for mixed tenure residential development, and requested approval for the recommended strategy for disposal of the site in four development parcels starting with two parcels of land to the South end of the site for the building of up to 150 new homes.

Cabinet considered the following decision options: either to approve the recommendations as detailed at Section 1.2 of the report, or alternatively not approve the recommendations.

**Resolved** that (1) the disposal strategy, as detailed in the report, based on the division of Annitsford Farm into four development parcels to be brought to the market over at least two phases, be approved;

(2) the Head of Commissioning and Investment, in consultation with the Cabinet Member for Housing and Transport, the Cabinet Member for Finance and Resources, the Head of Environment, Housing and Leisure, the Head of Law and Governance and the Head of Finance, be authorised to submit an Outline Planning application for Sites A and B to establish the principles of a combined site density of 150 dwellings and the site access arrangements as shown on the plan attached at Appendix 1 to the report;

(3) the Head of Commissioning and Investment, in consultation with the Cabinet Member for Housing and Transport, the Cabinet Member for Finance and Resources, the Head of Environment, Housing and Leisure, the Head of Law and Governance and the Head of Finance, be authorised to agree the terms of disposal of sites A and B;

(4) the Head of Commissioning and Investment, in consultation with the Cabinet Member for Housing and Transport, the Cabinet Member for Finance and Resources, the Head of Environment, Housing and Leisure, the Head of Law and Governance and the Head of Finance, be authorised to commence the formal tender process for the disposal of sites A and B once Outline Planning approval has been secured: and

(5) a further report to seek approval for appointing a developer be submitted to Cabinet in due course.

(Reason for decision – It allows the Authority to maximise the receipt from the sale of the Annitsford Farm site. The capital receipts will support the Investment Plan within the Housing Revenue Account. It also ensures the development of the site, provides surety on payment timescales and will provide new homes that help meet the demand in the area.)

**CAB78/11/15 Corporate Risk Management Summary Report (All Wards)**

Cabinet considered a report which detailed the corporate risks that had been identified for monitoring and management by the Authority's Senior Leadership Team and relevant Cabinet members. The report also provided detailed information on each risk and how it was being managed.

Cabinet considered the following decision options:

Option 1 – endorse the outcome of the latest review by the Authority’s Senior Leadership Team.

Option 2 – suggest changes to the corporate risks and their controls.

**Resolved** that the latest review of key corporate risks undertaken by the Senior Leadership Team be endorsed.

(Reason for decision – Each of the corporate risks has undergone substantial review and challenge as part of the corporate risk management process. This is designed to provide assurance that corporate risks and opportunities are being identified and appropriately managed.)

### **CAB79/11/15 Dates and Times of Next Meetings**

10.00am on Wednesday, 18 November 2015 (Extraordinary Meeting)

6.00pm on Monday 23 November 2015 (Extraordinary Meeting)

4.00pm on Monday 7 December 2015 (Extraordinary Meeting)

6.00pm on Monday 14 December 2015 (Ordinary Meeting)

### **Minutes published on Thursday 12 November 2015.**

**The decisions contained within these Minutes may be implemented (unless called in by 3 Non-Executive Members for consideration by the Overview, Scrutiny and Policy Development Committee) immediately following the expiry of the call-in period; i.e. 5.00pm on 19 November 2015.**