

## Appendix A

### Proposed Changes to the Main Constitution



## Constitution – Proposed Changes

Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
<p><b>1.</b> Part 3.5 – D Regulatory and Other Committees</p> <p>4. Licensing Committee</p>	<p>3, To deal with all matters relating to the licensing of sex establishments in connection with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in so far as those matters are not dealt with by the relevant Head of Service under their delegated powers, and in particular the following:</p> <ul style="list-style-type: none"> <li>a) To determine applications for the grant, renewal or transfer of Sex Establishment Licences, if a relevant objection is made.</li> <li>b) To determine applications to vary Sex Establishment Licences where an officer is minded to refuse.</li> <li>c) To determine, if a holder of licence wishes to appear before the Licensing Sub-Committee or to make written representations, the possible revocation of a Sex Establishment Licence.</li> <li>d) To prescribe/amend standard conditions for sex establishment licences.</li> </ul> <p>4. To be responsible for the issue of licences to allow the performance of hypnotism under the Hypnotism Act 1952.</p>	<p>Transfer to Regulation and Review Committee.</p> <p>The Committee will meet with a reduced membership of 5 (a panel) to exercise these functions. Members of the panel will be selected from the Members of the Committee and will include the Chair and/or the Deputy Chair if available. In these cases the quorum for the panel will be 3.</p>

**Reason for proposed change:**

The Licensing Committee has been established by statute and must exist to deal with those matters that relate specifically to the Licensing Act 2003 and the Gambling Act 2005. The Committee is governed by Regulations and the Committee, subject to those Regulations, may determine its own procedure to be adopted for hearings before it.

All other licensing matters however are dealt with at Regulation and Review Committee which is a Committee of the Council established at the discretion of the Council by virtue of the provisions of the Local Government Act 1972 and must operate in accordance with that legislation. It is for the Council to determine what matters should come before Regulation and Review Committee.

It avoids confusion, and potential legal challenge, to have a clear distinction between those licensing matters that must be dealt with by the Licensing Committee, (alcohol, regulated entertainment and gambling) and the other licensing matters dealt with by the Authority, such as sex establishment licensing and hypnotism, that may be dealt with by a Committee established under the Local Government Act 1972, namely, the Regulation and Review Committee.

**Implications of proposed change:**

- **Finance and other resource implications:**  
There are no financial or other resource implications arising from the proposal.

- **Legal implications:**

There needs to be a clear distinction between the Licensing Committee determining matters under the Licensing Act 2003 and Gambling Act 2005 and those matters determined under other licensing legislation.

- **Consultation/Engagement undertaken (internal and external):**  
None.

- **Human Rights implications:**  
There are no human rights implications arising from the proposal.

<ul style="list-style-type: none"> <li>• <b>Equalities and Diversity implications:</b> There are no equalities and diversity implications arising from the proposal.</li> <li>• <b>Risk Management implications:</b> There are no risk management implications arising from the proposal.</li> <li>• <b>Crime and Disorder implications:</b> There are no crime and disorder implications arising from the proposal.</li> <li>• <b>Environment and Sustainability implications:</b> There are no environment and sustainability implications arising from the proposal.</li> </ul>	<p><b>Proposed by:</b> John Barton  <b>Service Area:</b> Law and Governance  <b>Contact Tel. No:</b> 6435354</p> <p><b>Head of Service sign-off:</b> <input type="checkbox"/> X          (please insert a cross in the box)</p>
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## Constitution – Proposed Changes

Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
<p><b>2,</b> Part 4.3 – Overview and Scrutiny Rules of Procedure</p> <p>Para 21. Sub Groups</p>	<p>In appointing sub groups the committee and sub committees will:</p> <p>c) determine the membership of the sub group to be drawn from the membership of the committee or sub committee</p>	<p>In appointing sub groups the committee and sub committees will:</p> <p>c) determine the membership of the sub group to be drawn from the <del>membership of the committee or sub-committee</del> <u>non-Executive Members of the Council</u></p>
	<p><b>Reason for proposed change:</b> To increase the potential for greater Member and cross-party involvement in scrutiny reviews.</p>	
<p><b>Implications of proposed change:</b></p>		
<ul style="list-style-type: none"> <li>• <b>Finance and other resource implications:</b> There are no financial or other resource implications arising from the proposal.</li> <li>• <b>Legal implications:</b> There are no legal implications arising from the proposal.</li> <li>• <b>Consultation/Engagement undertaken (internal and external):</b> Consultation on the proposal has taken place with the Chairs and Deputy Chairs of the Scrutiny Committees.</li> <li>• <b>Human Rights implications:</b> There are no human rights implications arising from the proposal.</li> </ul>		

<ul style="list-style-type: none"> <li>• <b>Equalities and Diversity implications:</b> There are no equalities and diversity implications arising from the proposal.</li> <li>• <b>Risk Management implications:</b> There are no risk management implications arising from the proposal.</li> <li>• <b>Crime and Disorder implications:</b> There are no crime and disorder implications arising from the proposal.</li> <li>• <b>Environment and Sustainability implications:</b> There are no environment and sustainability implications arising from the proposal.</li> </ul>	<p><b>Proposed by:</b> Dave Brown  <b>Service Area:</b> Law and Governance  <b>Contact Tel. No:</b> 6435358</p>	<p><b>Head of Service sign-off:</b>          (please insert a cross in the box)</p> <div style="border: 1px solid black; width: 30px; height: 20px; margin-left: auto; margin-right: auto; text-align: center; line-height: 20px;">x</div>
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## Constitution – Proposed Changes

Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
3. Part 5 Petition Scheme	See attached	See attached
	<p><b>Reason for proposed change:</b></p> <p>To provide further clarification about the petitions scheme.</p>	
	<p><b>Implications of proposed change:</b></p> <ul style="list-style-type: none"> <li>• <b>Finance and other resource implications:</b> There are no financial or other resource implications arising from the proposal.</li> <li>• <b>Legal implications:</b> There are no legal implications arising from the proposal.</li> <li>• <b>Consultation/Engagement undertaken (internal and external):</b> Consultation has been undertaken with Customer and Member Liaison who administer the petitions scheme.</li> <li>• <b>Human Rights implications:</b> There are no human rights implications arising from the proposal.</li> </ul>	

<ul style="list-style-type: none"> <li>• <b>Equalities and Diversity implications:</b> There are no equalities and diversity implications arising from the proposal.</li> <li>• <b>Risk Management implications:</b> There are no risk management implications arising from the proposal.</li> <li>• <b>Crime and Disorder implications:</b> There are no crime and disorder implications arising from the proposal.</li> <li>• <b>Environment and Sustainability implications:</b> There are no environment and sustainability implications arising from the proposal.</li> </ul>	<p><b>Proposed by:</b> Dave Brown  <b>Service Area:</b> Law and Governance  <b>Contact Tel. No:</b> 6435358</p> <p><b>Head of Service sign-off:</b> <input checked="" type="checkbox"/> (please insert a cross in the box)</p>
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## Part 5 Petition Scheme

The Authority welcomes petitions and recognises that petitions are an important way in which people can let us know their concerns. This scheme sets out how local people can submit a petition to North Tyneside Council and how the Authority will respond. We will treat as a petition any written communication that is either identified as being a petition, or which seems to us is intended to be a petition and which is signed by at least 10 people.

### What can my petition relate to?

A petition to the Authority should relate to:

- a matter which the Authority has responsibility for; or
- anything relating to the economic, social or environmental well being of the borough, as long as the Authority has a degree of influence over the issue.

If your petition is about something over which the Authority has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Authority works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with North Tyneside Council policy), we will write to you explaining the reasons for this.

If your petition is about something that a different Authority is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Authority, but could involve other steps. In any event we will always notify you of the action we have taken.

### What should I include in my petition?

Petitions submitted to the Authority must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Authority to take.
- the name, the address/post code within North Tyneside where they live, work or study and signature of any person supporting the petition.

Petitions ~~should~~ must be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition.

If a petition does not follow the guidelines set out above, the Authority may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

## | Who can sign or submit a petition?

Anyone who lives, works or studies in North Tyneside, including under 18's, can sign or organise a petition.

## How do I submit a petition?

| Petitions ~~can~~ must be sent to:

Head of Law and Governance  
North Tyneside Council  
Quadrant (East)  
Silverlink North  
Cobalt Business Park  
NE27 0BY

E-Petition Facility

Alternatively, you may submit a petition and obtain signatures electronically using the facility available on North Tyneside Council's website [www.northtyneside.gov.uk](http://www.northtyneside.gov.uk)

## What will the Authority do when it receives my petition?

When the Authority receives a petition, a receipt confirming it has been received will be provided to the petition organiser. An an acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. This acknowledgement will tell you who is responsible for responding to your petition. We aim to respond to all petitions within 28 working days; however in some cases it may take longer than this. We will inform the petition organiser if there is any delay in responding to the petition. No additional signatures to a petition will be accepted once the receipt of the petition has been acknowledged.

The statement included in the petition, covering the subject matter and what action the petitioners wish the Authority to take, will be published on North Tyneside Council's website, except in cases where this would be inappropriate, for example where the petition includes personal information. The personal details of the petition organiser and signatories will not be published.

If the petition relates to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as Council tax banding and non-domestic rates, other procedures apply and therefore will not be considered under this scheme.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition. A petition may also be considered inappropriate if the matter relates to ongoing legal proceedings or targets individual members of a community. The

Authority's Monitoring Officer, in consultation with the Chief Executive, will be responsible for determining the appropriateness of petitions.

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

A petition will not normally be considered where it is received within 12 months of another petition being considered by the Authority on the same matter (unless there has been a material change in circumstances).

### **How will the Authority respond to my petition?**

The Authority will respond to all petitions. There are thresholds which need to be met to trigger certain responses (detailed below). To ensure that people know what we are doing in response to the petitions we receive, the Authority's response to all petitions submitted to us under this scheme will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

All petitions received under this scheme will fall into one of the following 3 categories:

#### **'Ordinary' petitions**

Petitions which have less signatures than the set thresholds or do not request the action triggered by reaching the set thresholds will be classed as 'ordinary petitions'. In this instance one or more of the following actions may be taken:

- taking the action requested in the petition
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- writing to the petition organiser setting out our views about the request in the petition
- referring the petition to an Overview, Scrutiny and Policy Development committee

In addition to these steps, the Authority will consider all the specific actions it can potentially take on the issues highlighted in a petition.

A petition organiser can request that a petition be presented to a meeting of Full Council. This right applies regardless of the number of signatures; however, there will be no debate on the issue. The petition organiser can request to present a petition at Council by contacting Governance-Democratic Services on 0191 643 5358 at least 10 working days before the day of the Council meeting.

#### **Full Council debates**

Full Council can debate a petition if it has received 2000 or more valid signatures. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. If a petition has enough signatures to trigger this action, a letter to the petition organiser will confirm this, informing when and where the meeting will take place.

The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes.

The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which North Tyneside Council's Elected Mayor and Cabinet are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

### **Officer evidence**

A petition can request that a senior officer give evidence at a public meeting in relation to the subject issue of the petition. This response will occur if such action has been requested in the petition and the petition has 1000 or more valid signatures. The public meeting will be a meeting of North Tyneside Council's Overview, Scrutiny and Policy Development Committee. If a petition has met the requirements to trigger this response, this will be confirmed in writing, informing the petition organiser when and where the meeting will take place. A petition which is requesting a senior officer to give evidence at a meeting of the Overview, Scrutiny and Policy Development Committee will not be debated by Full Council.

Your petition may ask for a senior officer to give evidence about something for which the officer is responsible as part of their job. For example, your petition may ask a senior officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision. The Chief Executive, Deputy Chief Executive, Director of Public Health and Heads of Service can be requested to attend a meeting of the Overview, Scrutiny and Policy Development Committee. A list of the relevant senior officers and their job titles of the relevant senior officers can be found in Part 10 of the Authority's Constitution – Management Structure.

You should be aware that the Overview, Scrutiny and Policy Development Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Committee may also decide to call the relevant Councillor to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the Chair of the committee by

| contacting ~~Governance~~ Democratic Services on 0191 643 5318 up to three working days before the meeting.

### **What can I do if I feel my petition has not been dealt with properly?**

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that North Tyneside Council's Overview, Scrutiny and Policy Development Committee review the steps that the Authority has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Authority's response is not considered to be adequate.

The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Elected Mayor and Cabinet and arranging for the matter to be considered at a meeting of the Full Council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

If you require this document in an alternative format such as Braille, audiotape, large print or in an alternative language please contact us on (0191) 643 5359 or via email: [democraticsupport@northtyneside.gov.uk](mailto:democraticsupport@northtyneside.gov.uk)





## Constitution – Proposed Changes

Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
<p><b>4.</b> Part 8 Codes and Protocols</p> <p>New Protocol – 8.14 Protocol on use of Social Media by Members</p>	<p>Not applicable</p>	<p>See attached wording for new protocol</p>
<p><b>Reason for proposed change:</b></p> <p>In recognising the ongoing developments in technology, this protocol is intended to set out clearly how Elected Members ought to interact with social media, both as Members of the Council and as private individuals. The Standards Committee, at its meeting held on 29 January 2015, endorsed the inclusion of a social media protocol to be incorporated in the Constitution.</p>		
<p><b>Implications of proposed change:</b></p> <ul style="list-style-type: none"> <li>• <b>Finance and other resource implications:</b> There are no financial or other resource implications arising from the proposal.</li> <li>• <b>Legal implications:</b> Legal considerations in relation to Members’ use of social media are set out in the protocol.</li> <li>• <b>Consultation/Engagement undertaken (internal and external):</b> Consultation has taken place with the Standards Committee as referred to above.</li> <li>• <b>Human Rights implications:</b> There are no human rights implications arising from the proposal.</li> </ul>		

- **Equalities and Diversity implications:**  
There are no equalities and diversity implications arising from the proposal.
- **Risk Management implications:**  
There are no risk management implications arising from the proposal.
- **Crime and Disorder implications:**  
There are no crime and disorder implications arising from the proposal.
- **Environment and Sustainability implications:**  
There are no environment and disorder implications arising from the proposal.

**Proposed by:** Stephen Ballantyne  
**Service Area:** Law and Governance  
**Contact Tel. No:** 6435329

**Head of Service sign-off:**  
 (please insert a cross in the box)

X

## Part 8 Codes and Protocols

### 8.14 Protocol on use of Social Media by Members

#### 1. Introduction

1.1 Social media is a collective term used to describe easy ways to create and publish on the internet. The term is generally used to describe how organisations and individuals share content – text, video and pictures – and create conversations on the web.

1.2 Social media has grown substantially over recent years as a means of communicating and sharing information. Popular sites include Twitter, Facebook, Pinterest, Blogger, Wordpress and YouTube – more information about such sites, and some helpful tips for running them, can be found on the Authority's intranet.

1.3 It is important to remember that social media is 'social'; it is about communication. Training on the use of Social Media is available via the Learning Pool for Members and this explains what social media is<sup>1</sup>.

#### 2. Maintaining good 'netiquette'

2.1 Councillors, just like anyone else, should take due regard of internet security and to ensure that communications remain proper and appropriate the following practical points may assist:

- Make the commenting policy clear

A Member will need to take note of the comments that other people make on their site. This may be a fine line to tread, if offensive or disrespectful comments are allowed to stand then it can put off other members of the community, and the Members may be called to account under the Code of Conduct for Members in relation to the comments made. For blogs, the easiest way to handle this is to moderate comments and to state clearly that it is moderated and reasons why comments may be rejected. For Facebook or other social networks, including multi-media sites like YouTube and Flickr where people can post public or semi-public messages to a Members' profile, the Member will need to regularly check messages or disable message posting.

- Allow disagreement

Some comments made may not accord with a Member's views, but deleting the comments of people who disagree with the Member's views may result in a lack of trust in the Member's site.

- Think before publishing

Words cannot be unspoken and even if comments are deleted following a hastily fired off blog post or tweet, it will probably have already been read and will be referenced or duplicated in places on the web beyond the Member's reach.

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<sup>1</sup> Please click on this link to the Learning Pool: <http://northtyneside.learningpool.com/course/view.php?id=635>

- “Following” and “friending”

Some of the terminology in social media, like ‘following’ or ‘friending’ can imply an intimacy that is not really there. Both terms just mean the Member has linked their account to someone else so information can be shared. Experienced internet users are used to this, but some members of the public may feel uneasy when their Councillor begins following them on Twitter before establishing some sort of online relationship. Some Members wait to be followed themselves first.

Members may wish to make use of other communication functions that social media allows. Twitter’s ‘list’ function, for example, can help to follow local people in a less direct way. Bloggers are, however, almost invariably happy to be linked to.

Members need to think carefully about who to be ‘friends’ with or accept ‘friend’ requests from. Requesting or accepting, for example, an officer of the Authority as a ‘friend’ on a social network site must not compromise the professional and impartial relationship between officers and elected members. Generally this should be avoided.

- If you make a mistake:

Social media is transparent, the best bloggers admit mistakes rather than try to cover them up (which is not possible online). Amending text and acknowledging mistakes – perhaps by putting a line through the offending words and inserting a correction, or providing an update section at the bottom of a blog post - shows the public that a Member is not pretending it never happened.

- Avoid the difficult users

Over time Members may come across argumentative individuals through their use of Social Media. Members should be aware that they do not have to respond to all comments or posts.

### 3. Legal Considerations

In the main, Members have the same legal duties online as anyone else (see below), but failures to comply with the law may have more serious consequences. There are some additional duties around using a Member’s website for electoral campaigning and extra care needs to be taken when writing on planning, licensing and other quasi-judicial matters.

#### a) Libel

If a Member publishes an untrue statement about a person which is damaging to their reputation they may be subject to a libel action. This will also apply if a Member allows someone else to publish libellous comments on their website if they know about it and do not take prompt action to remove it. A successful libel claim will result in an award of damages against the Member.

#### b) Copyright

Placing images or text on a Member's site from a copyrighted source (for example extracts from publications or photos) without permission is likely to breach copyright. Members must either avoid publishing anything they are unsure about, or seek permission in advance. Breach of copyright may result in an award of damages against the Member.

#### c) Data Protection

Avoid publishing the personal data of individuals unless the Member has their express, written permission.

#### d) Bias and pre-determination

If a Member is involved in determining planning or licensing applications or other quasi-judicial decisions, they must avoid publishing anything that might suggest they do not have an open mind about a matter they may be involved in determining. If not, the decision runs the risk of being invalidated.

#### e) Obscene material

A Member should avoid publishing anything that people would consider obscene. Publication of obscene material is a criminal offence.

#### f) Bullying and Discriminatory comments

Behaving in a discriminatory, bullying or harassing way towards any individual including making offensive or derogatory comments relating to sex, gender reassignment, race (including nationality), disability, sexual orientation, religion or belief or age via social media by posting images or links or comments could, in certain circumstances, result in criminal sanction.

#### g) Electoral periods

The Electoral Commission requires that candidates provide a return of expenditure on any form of advertising or campaign literature and that includes web advertising. And there are additional requirements, such as imprint standards for materials which can be downloaded from a website. Full guidance for candidates can be found at [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk).

While the above list is not exhaustive it does highlight some of the more obvious issues. If you are in any doubt, speak to Head of Law and Governance and Monitoring Officer. Almost all of these pitfalls can be avoided if your online content is objective, balanced, informative and accurate.

#### 4. The Members' Code of Conduct

It is worth pointing out that Members can have 'blurred identities' when they have a social media account where they comment both as a Member and as a private individual.

For example, a Member may have a Facebook account where they have posted about a great night out (in their personal/private capacity) and another time explained the Authority's position on pothole repair (in their Councillor capacity). It may be clear in the Member's mind when the Member has posted in a private capacity or as a councillor, however, it could be less clear to others.

Such blurred identities might, for example, have implications where the Member's views are taken as those of the Authority or political party, rather than the Member's personal opinion.

How a Member uses their online identity will also determine how online content will be treated in respect of the Members' Code of Conduct. Members are expected to communicate politically. As explained above there is a difference between communicating on behalf of the Authority, for example blogging as an elected Mayor/Member or as a private citizen, and the former will be held to a higher standard than the latter.

The key to whether a Member's online activity is subject to the Code of Conduct for Members is whether they are acting as a councillor.

Aspects of the Members' Code of Conduct will apply to a Member's online activity in the same way it does to other written or verbal communication. Members should comply with the general principles of the Code in what they publish and what they allow others to publish.

Members will need to be particularly aware of the following sections of the Code:

- Treating others with respect. Avoid personal attacks and any disrespectful, rude or offensive comments.
- Refraining from publishing anything you have received in confidence.
- Ensuring you do not bring the Authority, or your role as a Member, into disrepute.

Further information in relation to this guidance is available from the Head of Law and Governance and Monitoring Officer.

## Constitution – Proposed Changes

Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
<p><b>5. Part 8 Codes and Protocols</b>  <b>8.2 Code of Conduct for Elected Members and Co-opted Members</b></p> <p><b>Part 1 – General Conduct</b></p>	<p><b>Not applicable</b></p>	<p><b>New paragraph:</b>            11. You must not do anything that would cause you to breach any equality laws. For example, you must not make sexist and/or racist remarks.</p>
	<p><b>Reason for proposed change:</b></p> <p>At a regional meeting of Chair and Deputy Chairs of Standards Committee and Independent Persons a proposal was put forward by Newcastle City Council to amend the Code of Conduct for Members to include a reference in the General Conduct Section of the Code of Conduct to not breaching equality laws. The Standards Committee considered this proposal and were broadly in favour of this suggestion. The Standards Committee referred this matter to the Constitution Task Group for further consideration.</p>	
<p><b>Implications of proposed change:</b></p>		
<ul style="list-style-type: none"> <li>• <b>Finance and other resource implications:</b>                There are no financial or other resource implications from this proposed change.</li> <li>• <b>Legal implications:</b>                The Authority is required by the Localism Act 2011 to promote and maintain high standards of conduct by its elected Members and co-opted Members. As a result the Authority has adopted a Code of Conduct for Members. The proposed amendment to the Code of Conduct would make explicit reference to the responsibilities of Members in relation to equality legislation. However, Members are in any event bound by these obligations as they are otherwise captured by the requirements currently in the Code of Conduct in relation to treating others with respect and not doing anything that could reasonably be regarded as bringing the Authority into disrepute.</li> </ul>		

- **Consultation/Engagement undertaken (internal and external):**  
The Standards Committee have considered this proposal. The proposal has also been discussed at the regional meeting of Chairs and Deputy Chairs of Standards Committees and Independent Persons.
- **Human Rights implications:**  
There are no Human Rights implications from this proposed change.
- **Equalities and Diversity implications:**  
There are no Equality and Diversity implications from this proposed change.
- **Risk Management implications:**  
There are no Risk Management implications from this proposed change.
- **Crime and Disorder implications:**  
There are no Crime and Disorder implications from this proposed change.
- **Environment and Sustainability implications:**  
There are no Environment or Sustainability implications from this proposed change.

**Proposed by: Vivienne Geary, Head of Law and Governance**  
**Service Area: Law and Governance**  
**Contact Tel. No: 0191 643 5339**

**Head of Service sign-off:**  X  
 (please insert a cross in the box)



Appendix B

Proposed Changes to the Officer Delegation Scheme



## Officer Delegation Scheme – Proposed Changes

Section and Reference	Existing Text (as contained in Version # of the scheme)	Proposed amendment including revised text if appropriate
<p><b>1.</b> 5. General Delegations (GD20) and</p> <p>18. Head of Human Resources and Organisational Development (HR)</p>	<p><b>Retained Human Resources</b></p> <p>GD20 To appoint (below the level of Head of Service), dismiss and deploy staff and deal with other employment matters in accordance with human resources policy, procedure and guidelines, subject to their actions being within their approved budget. (Note: Authority to amend establishments, determine grades for new posts and deal with the re-grading of posts rests with the Chief Executive.)</p> <p>HR Retained Human Resources</p> <p>HR2 In consultation with the Deputy Chief Executive and Heads of Service as appropriate, to receive notification of new posts; to determine allowances attached to those posts; to determine grades for those posts; to amend establishments, and to deal with the re-grading of posts or review of grading of posts.</p>	<p><b>Retained Human Resources</b></p> <p>GD 20 To appoint (below the level of Head of Service), dismiss and deploy staff and deal with other employment matters in accordance with human resources policy, procedure and guidelines, subject to their actions being within their approved budget. (Note: Authority to amend establishments, determine grades for new posts and deal with the re-grading of posts rests with the Chief Executive.)</p> <p>HR Retained Human Resources</p> <p>HR2 In consultation with the Deputy Chief Executive and Heads of Service as appropriate, to receive notification of new posts; or posts in addition to the establishment and any appropriate allowances attached to those posts; to determine grades and appropriate allowances for those posts; to amend establishments, and to deal with the re-grading of posts or review of grading of posts.</p>

<p><b>Reason for proposed change:</b>          In relation to GD 20 the information in brackets directly contradicts the HR delegation and needs to be removed.</p> <p>The word 'retained' needs to be removed as it is no longer required.</p> <p>In relation to HR 2 re-wording to make it clearer.</p>	<p><b>Implications of proposed change:</b></p> <ul style="list-style-type: none"> <li>• <b>Finance and other resource implications:</b> There are no financial or other resource implications arising from the proposal.</li> <li>• <b>Legal implications:</b> There are no legal implications arising from the proposal.</li> <li>• <b>Consultation/Engagement undertaken (internal and external):</b> None.</li> <li>• <b>Human Rights implications:</b> There are no human rights implications arising from the proposal.</li> <li>• <b>Equalities and Diversity implications:</b> There are no equalities and diversity implications arising from the proposal.</li> <li>• <b>Risk Management implications:</b> There are no risk management implications arising from the proposal.</li> <li>• <b>Crime and Disorder implications: None</b> There are no crime and disorder implications arising from the proposal.</li> </ul>
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	<ul style="list-style-type: none"> <li>• <b>Environment and Sustainability implications: None</b> There are no environment and disorder implications arising from the proposal.</li> </ul>
	<p><b>Proposed by: Lisa Rankin/Alison Lazizzera</b>  <b>Service Area: Human Resources</b>  <b>Contact Tel. No: 5061</b></p>
	<p><b>Head of Service sign-off:</b>          (please insert a cross in the box)</p> <div style="border: 1px solid black; width: 40px; height: 20px; margin-left: 100px; text-align: center; line-height: 20px;">x</div>




## Officer Delegation Scheme – Proposed Changes

Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
<p>2. 8. Deputy Chief Executive DCE12</p>	<p>In consultation with the Strategic Manager (Finance), write off irrecoverable debt due from former tenants in compliance with the Authority's write off policy:</p> <ul style="list-style-type: none"> <li>a) Up to £1000 - Housing Finance Officer or Housing Operations Manager</li> <li>b) Up to £3000 – Deputy Chief Executive</li> <li>c) Over £3000 – Cabinet</li> </ul>	<p>In consultation with Strategic Manager (Finance) write off irrecoverable debt due from former tenants in compliance with the Authority's write off policy.</p> <ul style="list-style-type: none"> <li>a) <del>Up to £1000 – Housing Finance Officer or Housing Operations Manager</del></li> <li>b) <del>Up to £3000 – Deputy Chief Executive</del></li> <li>c) <del>Over £3000 – Cabinet</del></li> </ul> <p><u>The following officers have delegated powers to write off former tenant rent arrears owed to the Authority:</u></p> <ul style="list-style-type: none"> <li>a) <u>Former tenant rent arrears of up to £250 should be authorised by the Debt Recovery Team leader and countersigned by the Housing Income Manager.</u></li> <li>b) <u>Former tenant rent arrears with a value between £250 and £1500 should be authorised by the Debt Recovery Team leader and countersigned by the Housing Operations Manager.</u></li> <li>c) <u>Former tenant rent arrears with a value of</u></li> </ul>

		<p><u>over £1500 but under £3000 must be authorised by the Head of Service and countersigned by the Chief Finance Officer.</u></p> <p><u>Write off of bad debts between £3000 and £10,000 requires approval by the Cabinet Member with responsibility for Housing</u></p> <p><u>Write off for bad debt over £10,000 requires a Cabinet decision</u></p> <p><u>All write offs will be evidenced by the appropriate paperwork, signed by the appropriate officer, countersigned by the manager/cabinet member as above.</u></p> <p><u>The above levels of write off also apply to Bankruptcy/Debt Relief Order/Individual Voluntary Arrangement when appropriate.</u></p>
<p><b>Reason for proposed change:</b> The current working practices are out of date and resource intensive for Senior managers, the Housing Finance Officer post does not exist within North Tyneside Homes. It is stream lining the new working practices that are now in place within North Tyneside Homes.</p>	<p><b>Implications of proposed change:</b></p> <ul style="list-style-type: none"> <li>• <b>Finance and other resource implications:</b> There are savings in staff time by changing the delegation authorisations.</li> <li>• <b>Legal implications:</b> There are no legal implications directly arising from this proposal.</li> </ul>	



<ul style="list-style-type: none"> <li>• <b>Consultation/Engagement undertaken (internal and external):</b> None.</li> <li>• <b>Human Rights implications:</b> There are no human rights implications directly arising from this proposal.</li> <li>• <b>Equalities and Diversity implications:</b> There are no equalities and diversity implications directly arising from this proposal.</li> <li>• <b>Risk Management implications:</b> There are no risk management implications directly arising from this proposal.</li> <li>• <b>Crime and Disorder implications:</b> There are no crime and disorder implications directly arising from this proposal.</li> <li>• <b>Environment and Sustainability implications:</b> There are no environment and sustainability implications directly arising from this proposal.</li> </ul>	<p><b>Proposed by:</b> Ian Rice  <b>Service Area:</b> North Tyneside Homes  <b>Contact Tel. No:</b> 643 7729</p>
<p><b>Head of Service sign-off:</b></p> <div style="text-align: center;">   <input checked="" type="checkbox"/> </div> <p>(please insert a cross in the box)</p>	<p style="text-align: right;">12<sup>th</sup> March 2015</p>



## Officer Delegation Scheme – Proposed Changes

Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
<p>3. 17. Head of Environment and Leisure EL205</p>	<p>Approval to terms of disposal of land for garden, garage, conservatory, porch or similar use as extensions to privately owned dwelling houses.</p>	<p>Approval to terms of disposal of land for garden, garage, conservatory, porch or similar use as extensions to privately owned dwelling houses, or for <u>leasehold enfranchisements</u>.</p>
<p><b>Reason for proposed change:</b> To clarify the Delegation by identifying salient current Legislation.</p>		
<p><b>Implications of proposed change:</b></p> <ul style="list-style-type: none"> <li>• <b>Finance and other resource implications:</b> There are no financial or other resource implications arising from the proposal.</li> <li>• <b>Legal implications:</b> There are no legal implications arising from the proposal.</li> <li>• <b>Consultation/Engagement undertaken (internal and external):</b> None.</li> <li>• <b>Human Rights implications:</b> There are no human rights implications arising from the proposal.</li> </ul>		

• **Equalities and Diversity implications:**

There are no equalities and diversity implications arising from the proposal.

• **Risk Management implications:**

There are no risk management implications arising from the proposal.

• **Crime and Disorder implications:**

There are no crime and disorder implications arising from the proposal.

• **Environment and Sustainability implications:**

There are no environment and sustainability implications arising from the proposal.

**Proposed by:** Niall Cathie / Brett Devenish

**Service Area:** Strategic Property

**Contact Tel. No:** 6654

**Head of Service sign-off:**

(please insert a cross in the box)



10<sup>th</sup> March 2015

## Officer Delegation Scheme – Proposed Changes

Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
<p>4. 17. Head of Environment and Leisure EL208</p>	<p>Delegation to the Head of Environment and Leisure:-  Approval to the purchase or sale by the Authority of any land or property where the capital value is less than £15,000. Where the capital value is between £15,000 and £25,000 approval must be in consultation with the relevant Cabinet Member.</p>	<p>Delegation to the Head of Environment and Leisure:-  Approval to the purchase <u>or the declaration as surplus to requirements and or sale</u> by the Authority of any land or property where the capital value is less than £15,000. <del>Where the capital value is between £15,000 and £25,000 approval must be in consultation with the relevant Cabinet Member up to £250,000, in consultation with the Chief Executive (Section 151 Officer), the Head of Law and Governance, the Elected Mayor, the Cabinet Member for Finance and Resources and other relevant Cabinet Portfolio Holders.</del></p>
<p><b>Reason for proposed change:</b> The existing delegation does not give the Council the ability to take advantage of early opportunities that arise to purchase and dispose of properties that further the Council's strategic aims.  As the Council now has the additional level of governance of the Strategic Property Group to oversee and provisionally agree all strategic property decisions it is now considered appropriate to pursue a change in Delegation 208.</p>		

**Implications of proposed change:**

- **Finance and other resource implications:**  
The full financial implications of pursuing any property purchase or disposal up to the value of £250,000 will be considered by Strategic Property Group prior to acquisition in accordance with the Budget and Policy Framework.
- **Legal implications:**  
Any acquisitions and disposals of properties will be progressed and completed in compliance with the Authority's Financial Regulations and applicable legislation.  
  
Section 123 of the Local Government Act 1972 allows the Authority to dispose of and acquire property subject to the transaction representing best value.
- **Consultation/Engagement undertaken (internal and external):**  
Before any property transaction is considered for approval under the revised delegation it will require the provisional approval of the Strategic Property Group.
- **Human Rights implications:**  
Human rights implications will be reported on and considered in respect of each individual property transaction.
- **Equalities and Diversity implications:**  
Equality and human rights implications will be reported on and considered in relation to each individual property transaction
- **Risk Management implications:**  
Human rights implications will be reported on and considered in relation to each individual property transaction
- **Crime and Disorder implications:**  
Crime and disorder implications will be reported on and considered in relation to each individual property transaction
- **Environment and Sustainability implications:**  
Environment and sustainability implications will be reported on and considered in relation to each individual property

	transaction
	<b>Proposed by:</b> Niall Cathie – Strategic Property Manager <b>Service Area:</b> Environment and Leisure <b>Contact Tel. No:</b> 6436517
	<b>Head of Service sign-off:</b> (please insert a cross in the box) <input data-bbox="384 1319 443 1440" type="checkbox"/> x






## Officer Delegation Scheme – Proposed Changes

Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
<p>5. <u>Head of Environment and Leisure</u></p> <p>This is a new delegation.</p> <p><u>Head of Law and Governance</u></p> <p>This is a new delegation</p>	<p>None</p>	<p><u>Head of Environment and Leisure - Anti-Social Behaviour, Crime and Policing Act 2014:</u></p> <p>a) To issue a Closure Notice under section 76 of the Anti-Social Behaviour, Crime and Policing Act 2014.</p> <p>b) To issue a Cancellation Notice under section 78 of the Anti-Social Behaviour, Crime and Policing Act 2014.</p> <p>c) To authorise officers to enter premises for which a Closure Order is in force and/or to do anything necessary to secure the premises against entry.</p> <p>d) To issue Community Protection Notice under section 43 of the Anti-Social Behaviour, Crime and Policing Act 2014.</p> <p>e) To issue a Fixed Penalty Notice under section 52 for failure to comply of the Anti-Social Behaviour, Crime and Policing Act 2014 with fines up to £100.</p> <p>f) To delegate authorised officers to utilise the Anti-Social Behaviour, Crime and Policing Act 2014 with regard to issuing and enforcement of community protection orders and Fixed Penalty Notices.</p> <p>g) To authorise officers to take enforcement action and enter premises for which a Community Protection Notice Order is in force</p>

<p>and/or to do anything necessary to secure the premises against entry.</p> <p><u>Head of Law and Governance</u></p> <p>To make any application or defend any application or appeal, or take any other steps as required under the Anti-Social Behaviour, Policing and Crime Act 2014.</p>	
	<p><b>Reason for proposed change:</b>  The Anti-Social Behaviour, Crime and Policing Act 2014 is a recent piece of legislation. It gives power to a Police Inspector (or higher rank) or a local authority to issue a Closure Notice requiring a nuisance premises to close, including licensed premises where there are reasonable grounds for believing that there has, or is likely to be a nuisance or disorder. Once a Notice is served there is a requirement to make an application to the Magistrates' Court for a Closure Order. The premises owner or an interested party has the right to oppose the making of an Order. If an Order is made by the Magistrates' Court the premises owner can appeal to the Crown Court against that Order.</p> <p>The proposed delegation will authorise the issuing of the Closure Notice, the enforcement of the Notice by Officers and enable the necessary application to the Court to be made.</p>
	<p><b>Implications of proposed change:</b></p> <ul style="list-style-type: none"> <li>• <b>Finance and other resource implications:</b> Any financial implications can be absorbed within current budgets.</li> <li>• <b>Legal implications:</b> Without the delegations no steps could be taken under the 2014 Act to tackle nuisance premises.</li> <li>• <b>Consultation/Engagement undertaken (internal and external):</b> None save that Safer estates are aware of the legislation.</li> </ul>

	<ul style="list-style-type: none"> <li>• <b>Human Rights implications:</b> As the Courts have oversight of the process this is not an issue for the Authority.</li> <li>• <b>Equalities and Diversity implications:</b> There are no equalities and diversity implications directly arising from this proposal.</li> <li>• <b>Risk Management implications:</b> There are no risk management implications directly arising from this proposal. Careful consideration would be given on a case by case basis to issuing a Closure Notice.</li> <li>• <b>Crime and Disorder implications:</b> This legislation is specifically designed to address nuisance and or disorder.</li> <li>• <b>Environment and Sustainability implications:</b> Any Closure Notice would be for the benefit of the neighbourhood in which the nuisance premises are situated.</li> </ul>
	<p><b>Proposed by:</b> John Barton  <b>Service Area:</b> Legal Services  <b>Contact Tel. No:</b> 5354</p>
	<p><b>Head of Service sign-off:</b></p> <div style="text-align: center;">   <input checked="" type="checkbox"/> </div> <p>(please insert a cross in the box)</p>

10<sup>th</sup> March 2015



## Officer Delegation Scheme – Proposed Changes

Section and Reference	Existing Text (as contained in Version # of the scheme)	Proposed amendment including revised text if appropriate
<p><b>6.</b> New delegation to the Head of Environment and Leisure</p> <p>Party Wall etc. Act 1996 s.10(8)</p>	<p>Not applicable</p>	<p>To act as the Appointing Officer for the Local Authority in relation to s.10(8) of the Party Wall etc Act 1996.</p>
<p><b>Reason for proposed change:</b>            The statutory delegation for this role does not exist in the Officer Delegation Scheme. The Appointing Officer will – in the event of any dispute between two Surveyors – select a third Surveyor to act in the resolution of disputes in a party wall matter.</p>		
<p><b>Implications of proposed change:</b></p>		
<p><b>Finance and other resources</b></p> <p>The cost of acting as the Appointing Officer and selecting a Third Surveyor is only in relation to staff time and can therefore be met from existing budgets.</p>		
<p>The Authority does not pay for the third surveyor, just appoints when agreement cannot be reached and the fees are met by the landowner / adjoining owner. Section 10(13) of the Act sets out:</p> <p>The reasonable costs incurred in:</p> <ul style="list-style-type: none"> <li>o Making or obtaining an award under this section.</li> <li>o Reasonable inspections of work to which the award relates; and</li> <li>o Any other matter arising out of the dispute,</li> </ul> <p>shall be paid by such of the parties as the surveyor or surveyors making the award determine.</p>		

## **Legal**

The Party wall etc. Act 1996 provides a framework for preventing or resolving disputes in relation to party wall, party structures, boundary walls and excavations near to neighbouring buildings. The relevant section of the Party Wall etc. Act 1996 are set out above. Persons intending to carry out work to the party wall of the kinds described in the Act must give any adjoining owners notice of their intentions. Building work in this specific case invokes both Section 2 (work to be carried out to an existing party wall) and Section 6 (excavations near a neighbouring building) of the Act.

There is a duty under Section 10(8) of the Party Wall etc. Act 1996 for a local authority to have an Appointing Officer to select a Third Surveyor in respect of a dispute. A local authority cannot abdicate their responsibility in this matter.

### **Consultation/community engagement**

There has been no consultation with regard to this delegation for this specific case and none is required.

### **Human rights**

There are no human rights implications directly arising from this proposal.

### **Equalities and diversity**

There are no equality and diversity implications directly arising from this proposal.

### **Risk management**

There are no risk management implications arising from this proposal.

### **Crime and disorder**

There are no crime and disorder implications arising from this proposal.

### **Environment and sustainability**

	There are no environment and sustainability implications arising from this proposal.
	<b>Proposed by: Michael Clarkson – Building Control Manager</b> <b>Service Area: Planning, Building Control &amp; Public Protection : Environment &amp; Leisure</b> <b>Contact Tel. No: 6436012</b>
	<b>Head of Service sign-off:</b> (please insert a cross in the box) <input data-bbox="419 1317 477 1435" type="checkbox"/>

