

# **The Durham, Gateshead, South Tyneside and Sunderland Combined Authority**

## **Constitution**

**June 2021**

These are Standing Orders made in accordance with Section 6 of the Durham, Gateshead, South Tyneside and Sunderland Combined Authority Order 2014 (Statutory Instrument 2014 No. 1012) as amended.

## Version Control Sheet

This document (version 9, June 2021) is the Constitution of the Durham, Gateshead, South Tyneside and Sunderland Combined Authority adopted, by the Leadership Board on [ 8 June] 2021.

To maintain effective version control, this version control sheet will accompany any future issue of the Constitution.

The version number is shown in the bottom left hand corner of each page of the Constitution.

An up to date version of the Authority's Constitution will be available on the Combined Authority's web site.

Description	Date	Most Recent Version
Constitution	April 2014	Version 1
Includes the establishment of the EDRAB and provides for the provision of substitutes to committees.	April 2015	Version 2
Various changes including the establishment of Governance Sub-Committee and working groups, with new information for petitions and extraordinary meetings.	June 2015	Version 3
Various amendments to incorporate the changes made to the overview and scrutiny arrangements of Combined Authorities by legislation	March 2017	Version 4
Various updating amendments including changes to the Fraud and Anti-Corruption Policy and Whistleblowing Policy	June 2017	Version 5
Various amendments approved by the Leadership Board on 19 June 2018 to add clarity in terms of delegation to officers and to voting arrangements.	June 2018	Version 6
Amendments to reflect the change in the NECA Order as a consequence of the New Order.	November 2018	Version 7
Various updating amendments including changes to Thematic Lead areas	June 2019	Version 8
Change of Economic and Regeneration Advisory Board (EDRAB) to Economic and Digital Advisory Board (EDDAB)	June 2021	Version 9
Inclusion of delegations for Proper Officer of Transport	June 2021	Version 9
Amendment to the Delegations for the Head of Paid Service to enable them to make or amend	June 2021	Version 9

appointments to committees and outside bodies, in consultation with the Chair of the Leadership Board.		
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## **Making Changes to the Constitution**

The Monitoring Officer is required to continuously review the operation of the Constitution and update the Constitution at least annually. For details of how a Member or Officer can propose a change and the approval process please contact the Monitoring Officer.

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## Part 1 Introduction

This document sets out the standing orders of the Durham, Gateshead, South Tyneside and Sunderland Combined Authority pursuant to Section 6 of the Order.

### 1. The Constitution

In this Constitution:

“Combined Area” means the area consisting of the areas of the constituent authorities.

“Constituent Authorities” means the Local Authorities of Durham, Gateshead, South Tyneside and Sunderland, referred to in the Order as Constituent Councils.

“Delivery Agencies” means Durham County Council and Nexus.

“EDRAB” means the Economic Development and Regeneration Advisory Board.

“Joint Transport Committee” or “JTC” means the joint transport committee established by NECA and NoTCA and pursuant to Section 9 of the Second Order.

“LA7 area” means the Local Government areas of Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland.

“Leadership Board” means the Leadership Board of NECA.

“NECA” means the North East Combined Authority and is the operating name of the Durham, Gateshead, South Tyneside and Sunderland Combined Authority.

“Nexus” is the Tyne and Wear Passenger Transport Executive for Tyne and Wear and the executive body of NECA in relation to transport functions in Tyne and Wear.

“NoTCA” means the Newcastle upon Tyne, North Tyneside and Northumberland Combined Authority established by the Second Order.

“Order” means The Durham, Gateshead, South Tyneside and Sunderland Combined Authority Order 2014 (SI 2014 No. 1012) as amended by the Second Order.

“Proper Officer for Transport” means the principal officer to assist the Joint Transport Committee designated from time to time by that committee in accordance with Section 9(5) of the Second Order.

“Second Order” means the Newcastle upon Tyne, North Tyneside and Northumberland Combined Authority (Establishment and Functions) Order 2018.

This Constitution sets out how the North East Combined Authority operates, how decisions are made and the procedures that are followed to ensure that NECA operates efficiently, effectively and is both transparent and accountable.

The Constitution is made up of 7 parts.

NECA will exercise all of its powers and duties in accordance with the law and this Constitution.

A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

The Leadership Board will monitor and evaluate the operation of the Constitution as set out in paragraph 18 below.

## **2. The North East Combined Authority (NECA)**

NECA was established pursuant to the Order and came into existence on 15 April 2014 as the Combined Authority for the LA7 area. By the Second Order the boundaries of NECA were changed to cover the combined area.

NECA was established with the aim of improving:-

- a) the exercise of statutory functions relating to transport in the Combined Area
- b) the effectiveness and efficiency of transport in the Combined Area
- c) the exercise of statutory functions and general powers relating to economic development and growth in the Combined Area; and
- d) economic conditions in the Combined Area.

NECA is responsible for a number of transport functions and economic development and growth across the Combined Area. The functions of NECA conferred or imposed upon it by the Order or any other enactment are set out in Part 2 of this Constitution. Together with NoTCA, NECA has appointed a Joint Transport Committee for the purpose of discharging certain transport functions in accordance with the obligations set out in Article 8 of the Second Order.

## **3. Members of the North East Leadership Board (Leadership Board)**

Each of the Constituent Authorities' shall appoint its Leader to be a Member of the Leadership Board and another Member to act in the absence of the appointed Member (the substitute member).

The North East Local Enterprise Partnership (LEP) will nominate one of its Members to be a Member of the Leadership Board and another Member to act in the absence of the appointed Member (the substitute Member). The Leadership Board will appoint the LEP member, who will be a non-voting member of the

Leadership Board and the LEP substitute member, who will also be a non-voting member when acting in the absence of the LEP Member.

A person will cease to be a Member or a substitute Member of the Leadership Board if they cease to be a Member of the Constituent Authority that appointed them or the LEP that nominated them.

All Members of the Leadership Board will:-

- a) collectively be the policy makers of the Leadership Board, after taking account of the advice of Chief Officers;
- b) bring the views of their respective communities into the decision making process; and
- c) maintain the highest standards of conduct and ethics.

Members will act in the best interests of the Combined Area taking into account all relevant matters.

Members will at all times observe the Code of Conduct for Members as set out in Part 6.1 of this Constitution.

Members will be entitled to receive travel and subsistence allowance in accordance with the Members' Allowance Scheme set out in Part 7 of this Constitution.

#### **4. Chairing the Leadership Board**

The Leadership Board will appoint a Chair and a Vice Chair from amongst its Members.

The procedure for the appointment of the Chair and a Vice Chair is set out in the Rules of Procedure at Part 4.1 of this Constitution.

#### **5. Thematic Leads**

The four Thematic Lead areas are:

Chair Portfolio  
Economic Development and Digital  
Finance and Skills & Employability  
Transport

A further Thematic Lead area of Culture and Tourism continues to be scoped and developed and a Thematic Lead will be appointed by the Leadership Board from its membership at the appropriate time.

Thematic Leads will be appointed by the Leadership Board from its membership, usually at its Annual Meeting, and will:

- Preside as Chair, or nominate or agree a Member of NECA to preside as Chair, over any sub-committee/group established to support strategy development and delivery within their allocated theme.



- Provide a strategic lead in supporting and constructively challenging on their theme in the development of strategies and plans and contribute towards the strategic direction of the combined authority, within the authority's overall vision and policy objectives.
- Take part in the collective decision-making of NECA and ensure any theme sub-committee/group is accountable to the Leadership Board.
- Engage with business and other key stakeholders on issues within the theme to deliver the shared agenda for growth.
- Act as a 'sounding board' for senior officers (and in the case of transport the Proper Officer for Transport) on issues within the theme, and be supportive in dealing with any problems at a strategic level.
- Keep abreast of developments and policies at national, regional and local level related to the theme.
- Take the strategic lead in advising and reporting to the Combined Authority, its sub-committees or groups on issues within the theme.
- Participate in Overview and Scrutiny arrangements for the combined authority in connection with any issues associated with the theme(s) which are the subject of scrutiny.
- Represent the Combined Authority as appropriate at events related to the theme and to feedback to the Leadership Board any issues of relevance / importance.
- Act as a spokesperson for the Combined Authority on issues within the theme in accordance with agreed protocols.

## **6. Meetings and Procedure**

The Leadership Board will meet approximately bi-monthly but additional meetings may take place should the need arise.

There are three types of meeting:

- a) The Annual Meeting
- b) Ordinary meetings; and
- c) Extraordinary meetings

All meetings will be conducted in accordance with the Rules of Procedure set out in Part 4 of this Constitution.

## **7. Responsibility for Functions**

The functions of NECA are those conferred upon it by the Order or any other enactment. Only the Leadership Board will exercise the functions set out in Part 3.1 of this Constitution.

The Leadership Board has the power to delegate its functions, which are not reserved to it, to committees, sub-committees, officers, joint committees or other local authorities pursuant to section 101 of the Local Government Act 1972, section 9EA of the Local Government Act 2000 and regulation 5 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.

The Leadership Board has delegated responsibility for the discharge of its functions to committee and officers, in accordance with Parts 3.2, 3.3, 3.4, 3.5, 3.6 and 3.7 of this Constitution. In addition, the Leadership Board may delegate functions in accordance with a standing scheme of delegation (adopted and updated from time to time by the Leadership Board) and by specific delegations given in relation to certain matters.

The Leadership Board will review its delegations annually.

## **8. Nexus (The Tyne and Wear Passenger Transport Executive)**

Nexus is to be an executive body of NECA for the purposes of Part 5 of the Local Transport Act 2008 and Part 6 of the Local Democracy, Economic Development and Construction Act 2009.

Nexus has power to discharge any function that is the subject of arrangements entered into with NECA.

In the application of section 101 of the Local Government Act 1972 (arrangements for the discharge of functions), Nexus is an officer of NECA.

## **9. The North East Local Enterprise Partnership (LEP)**

The LEP is a cross-sector partnership with membership drawn from the public sector (the 7 Local Authorities of the LA7 area), the private sector, as well as higher and further education, whose vision is to promote and develop economic growth in the North East. In addition, it seeks to rebalance the economy and create Europe's premier location for low carbon, sustainable, knowledge-based private sector-led growth and jobs.

The key roles of the LEP are:

- Supporting enterprise and private sector business growth;
- Building on key economic strengths;
- Improving skills and performance; and
- Strengthening transport, connectivity and infrastructure.

The Leadership Board will appoint the LEP Member and substitute Member as set out in paragraph 3 above.

The LEP may at any time terminate the appointment of a member or substitute member nominated by it to the Leadership Board and nominate another of its members in that person's place.

In accordance with Section 101 of the Local Government Act 1972, NECA may delegate final decision making authority on certain matters to the North East Local

Enterprise Partnership Board and the LEP Board Constitution was endorsed by the Leadership Board for these purposes on 13<sup>th</sup> November 2018.

## 10. Committees of NECA

NECA has established:

- an Economic Development and Digital Advisory Board (“EDDAB”) to discharge the roles and functions set out in Part 3.2 of this Constitution.
- an Audit and Standards Committee to discharge the roles and functions set out in Part 3.3 of this Constitution
- an Overview and Scrutiny Committee to discharge the roles and functions set out in Part 3.4 of this Constitution
- a Joint Transport Committee discussed in paragraph 11 below.

The Leadership Board may establish such other committees (or sub committees) as it thinks fit to discharge its functions.

## 11. Joint Arrangements

NECA has power pursuant to section 101 and 102 of the Local Government Act 1972 to make arrangements with other local authorities to discharge their functions jointly and to form joint committees for the purposes of discharging such functions.

Such arrangements may also involve the discharge of those functions by an officer of one of them.

Together with NoTCA, NECA will establish a Joint Transport Committee for the purpose of exercising the functions prescribed by Section 9 of the Second Order and as set out in Part 3.5 of this Constitution.

## 12. Officers

### Chief Officers and Proper Officers

NECA will engage persons who will be designated as Chief Officers and Proper Officers in accordance with Part 3.6 of this Constitution.

Appointments to Chief Officer and Proper Officers positions will be conducted in accordance with the Officer Procedure Rules of this Constitution (Part 4.5). It is noted however that this is differentiated from the procedure for the Proper Officer for Transport which will be appointed by the Joint Transport Committee in accordance with Section 9(5) of the Second Order.

The Head of Paid Service, on behalf of NECA, may engage staff (referred to as officers) as it considers necessary to carry out its functions.

Officers will comply with the Code of Conduct for Officers set out in Part 6.2 of this Constitution.

## **13. Decision Making**

### **13.1 Responsibility for decision making**

NECA will issue and keep up to date a record of what part of NECA or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 – Responsibility for Functions of this Constitution.

### **13.2 Budget and Policy Framework**

The Budget and Policy Framework includes the Budget and those plans and strategies which cannot be decided upon by the Leadership Board without having complied with the Budget and Policy Framework Rules of Procedure set out in Part 4.4 of this Constitution. These rules of procedure ensure consultation with Councillors who are not members of the Leadership Board (mainly the members of the Overview and Scrutiny Committee) on initial proposals for these plans so that their views can feed into the development of these plans and strategies.

The Monitoring Officer will maintain a publicly accessible list of all of those plans and strategies contained in the Policy Framework.

### **13.3 Principles of decision making**

All decisions of NECA will be made in accordance with the following principles:

- a) Proportionality (meaning that the action must be proportionate to the desired outcome).
- b) Consideration of professional advice from officers.
- c) Due consultation.
- d) Consideration of the legal and financial implications.
- e) A presumption in favour of openness.
- f) Consideration of available options and outlining reasons for decisions.
- g) Respect for human rights.
- h) Promoting equality.
- i) Preventing crime and disorder
- j) Environment and sustainability.
- k) Risk management.
- l) The purpose of the Constitution.

### **13.4 Decisions reserved to the Leadership Board**

Decisions relating to functions listed in Part 3.1 of this Constitution will be made by the Leadership Board will not be delegated. The Leadership Board meetings will follow the Leadership Board Rules of Procedure set out in Part 4.1 of this Constitution when considering any matter.

### **13.5 Decision making by Committees and Joint Committees established by NECA**

Committees and Joint Committees established by NECA will follow the Procedure Rules set out in Part 4 of this Constitution.

### **13.6 Decision Making by Officers**

Officers will exercise their delegated authority in accordance with the Scheme of Delegation to Officers set out in Part 3.7 of this Constitution and other provisions of this Constitution, and in particular will have regard to the relevant principles of decision making set out at paragraph 13.3 above.

## **14. Costs**

In accordance with the terms of the Deed of Co-operation signed between NECA and the seven Local Authorities of the LA7 area:

- Costs attributable to the delivery of transport functions in the LA7 area will be met by the Constituent Authorities, primarily from the three separate levies determined by the Joint Transport Committee and otherwise in the proportions specified in the Deed of Co-operation. This will include the costs of NECA acting as accountable body for the Joint Transport Committee and the Regional Transport team for so long as it holds this responsibility; and,
- The costs attributable to the delivery of North East Local Enterprise Partnership functions or the functions of Invest North East England will be met by the Constituent Authorities of the LA7 area in equal proportions. This will include the costs of NECA acting as the accountable body for the North East Local Enterprise Partnership and Invest North East England functions for so long as it holds these responsibilities.

The amount payable by each of the Constituent Authorities in relation to the costs of NECA's other functions will be apportioned between the Constituent Authorities by agreement but in default of such agreement in equal shares between the Constituent Authorities.

Any change in the contributions paid by the Constituent Authorities to NECA will be agreed between the Leadership Board and the Constituent Authorities.

## **15. Financial Management**

The management of NECA's financial affairs will be conducted in accordance with the Financial Procedures set out in Part 5 of this Constitution.

## **16. Legal proceedings**

The Monitoring Officer is authorised to:

- a) institute, defend or participate in any administrative action and/or in any legal proceedings;

- b) sign any document in any case where such action will facilitate the carrying out of decisions of NECA; or in any case where the Monitoring Officer considers that such action is necessary to protect NECA's interests, or to further or achieve the objectives of NECA; and
- c) settle or otherwise compromise any such administrative action or legal proceedings if they have been commenced or there are reasonable grounds for believing such actions or proceedings may be contemplated.

Such powers may be exercised by an officer in their own name once authorised by the Monitoring Officer.

Any notices to be served on NECA are to be sent to NECA Monitoring Officer at South Tyneside MBC, Town Hall and Civic Offices, Westoe Road, South Shields NE33 2RL, which for the purposes of section 231 of the Local Government Act 1972 and any other enactment shall be regarded as the principal office of NECA.

## **17. Authentication of documents**

NECA adopted its current Common Seal at its meeting in November 2018. The Seal must be kept safely and securely by the Monitoring Officer and the Seal shall be under the control of the Monitoring Officer at all times.

Where any document is necessary to any legal procedure or proceedings on behalf of NECA, it will be signed by the Monitoring Officer or some other person duly authorised by NECA or the Monitoring Officer, unless any enactment otherwise authorises or requires.

Any contract with a value exceeding £30,000 entered into by NECA shall be in writing. Such contracts must be signed by two duly authorised officers of NECA or made under the Common Seal of NECA attested by an authorised officer. Any contract with a value exceeding £75,000 must be made under the Common Seal of NECA and attested by the Monitoring Officer or some other person authorised by the Monitoring Officer.

## **18. Review and Revision of the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution on an annual basis.

Changes to the Constitution will only be approved by the Leadership Board after consideration of the proposal by the Monitoring Officer and in accordance with the Leadership Board Rules of Procedure in Part 4 of this Constitution.

## Part 2 Powers and Functions

This part of the Constitution sets out the legislative background of the powers and functions transferred to NECA.

### Part 2.1 Transport Functions of the former Tyne and Wear Integrated Transport Authority (TWITA) transferred to NECA\*

Pursuant to the Order (as amended and augmented by the Second Order) the following functions of the former TWITA are transferred to NECA:-

- a) The discharge of all the functions, duties and responsibilities of the former TWITA.
- b) Without prejudice to the generality of sub-paragraph a) the discharge of all functions of the former TWITA that are provided for within the Transport Acts 1968, 1983, 1985 and 2000, the Local Government Act 1972, the Transport and Works Act 1992 and the Local Transport Act 2008.
- c) The appointment of members to Nexus in accordance with Article 16 of the Tyneside Passenger Transport Area (Designation) Order 1969 (as amended).

### Part 2.2 Transport Functions of Durham County Council transferred to NECA\*

2.2.1 Pursuant to the Order the following functions of Durham County Council are transferred to NECA:-

- a) Transport functions contained in Parts 4 and 5 of the Transport Act 1985 and Part 2 of the Transport Act 2000.

2.2.2 It is anticipated that the Joint Transport Committee will make arrangements for the exercise of transport functions in the Local Authority areas of Durham and Northumberland by the County Council's for those Local Authority areas respectively<sup>1</sup>.

2.2.3 NECA (as accountable body for the Joint Transport Committee), and in effect the Joint Transport Committee, may under the provisions of Article 9(2) of the Second Order, make arrangements for the exercise of any of its functions by NECA or its Officers. In addition, the Combined Authorities may agree to delegate transport functions under section 102 of the Local Government Act 1972 (arrangements for the discharge of functions) unless such delegation is prohibited by legislation.

2.2.4 The Leadership Board, the Combined Authorities, Joint Transport Committee and Nexus may draw up and agree detailed protocols in relation to the discharge of the transport functions and will keep these protocols under review.

2.2.5 Protocols drawn up, agreed, or revised under the paragraphs above will not in themselves constitute arrangements for the discharge of functions made in accordance with Article 9(2) of the Second Order, section 101 of the Local Government Act 1972 or the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.

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<sup>1</sup> Noting the wording of Article 9(2)(a) of the Second Order.



**\* The majority of transport functions of NECA may only be exercised by a Joint Committee established pursuant to Articles 8 and 9 of the Second Order. In addition, the North East Joint Transport Committee is a joint committee constituted with NoTCA in accordance with Sections 101 and 102 of the Local Government Act 1972.**

### **Part 2.3 Economic Development and Regeneration**

Pursuant to the Order, the following economic development and regeneration functions of the Constituent Authorities are to be exercised by NECA concurrently with the Constituent Authorities:

- a) The duties under sections 15ZA, 15ZB, 15ZC, 17A, 18A (1)(b), 514A and 560A of the Education Act 1996 (duties and powers related to the provision of education and training for persons over compulsory school age).
- b) The power under section 144 of the Local Government Act 1972 (the power to encourage visitors and provide conference and other facilities)
- c) The duty under section 69 of the Local Democracy, Economic Development and Construction Act 2009 (duty to prepare an assessment of the economic conditions of the local authority's area)

2.3.1 Any requirement in any enactment for a Constituent Authority to exercise any function may be fulfilled by the exercise of that function by NECA unless there is a contrary intention expressed in any enactment.

2.3.2 The Leadership Board and the Constituent Authorities, in consultation with the EDRAB, will draw up and agree detailed protocols in relation to the discharge of the economic development and regeneration functions.

2.3.3 The Leadership Board and the Constituent Authorities will keep the protocols referred to above under regular review and may revise them from time to time.

2.3.4 Protocols drawn up, agreed, or revised under the paragraphs above will not in themselves constitute arrangements for the discharge of functions made in accordance with section 101 of the Local Government Act 1972 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.

### **Part 2.4 Incidental Provisions**

Pursuant to the Order, the following provisions have effect as if NECA was a local authority for the purposes of these provisions:

1. Section 142(2) of the Local Government Act 1972 (the power to arrange for publication of information etc. relating to the functions of the authority).
2. Section 222 of the Local Government Act 1972 (the power to instigate and defend legal proceedings).

3. NECA shall have the power to exercise any of the functions described in subsection 1(a) and (b) of section 88 of the Local Government Act 1985 (research and collection of information whether or not a scheme is made under that section).
4. Section 13 of the Local Government and Housing Act 1989 shall have effect as if:
  1. in subsection (4) after paragraph (h) there were inserted  
“4(i) subject to subsection (4A), a committee appointed by the Durham, Gateshead, , South Tyneside and Sunderland Combined Authority” and
  2. After subsection (4) there were inserted –  
“(4A) A person who is a member of a committee falling within paragraph (i) of subsection (4) or a sub-committee appointed by such a committee shall for all purposes be treated as a non-voting member of that committee or sub-committee unless he is a member of one of the Constituent Council’s as defined by article 2 of the Durham, Gateshead, South Tyneside and Sunderland Combined Authority Order 2014.”
5. The Apprenticeships Skills, Children and Learning Act 2009 shall have effect as if NECA were a local authority for the purposes of section 84(2) of the Act.

### **Part 2.5 Functions conferred on NECA by local government legislation**

NECA shall have such other powers, duties and responsibilities as are conferred on a Combined Authority by any enactment.

Without prejudice to the generality of the above, such powers, responsibilities and duties include:

- a) Broad well-being powers given to it by virtue of sections 99 and 102A of the Local Transport Act 2008, the functions related to the general power of competence given to it under section 1 of the Localism Act 2011 and the general powers granted to it by virtue of section 113A of the Local Democracy, Economic Development and Construction Act 2009 to promote economic growth.
- b) The duty to appoint a Head of Paid Service, a Monitoring Officer and an Officer with responsibility for the administration of NECA’s financial affairs.
- c) The power to borrow money for a purpose relevant to its transport functions only.
- d) The power to appoint staff and to enter into agreements with other local authorities for the secondment of staff.
- e) The power to acquire land by agreement or compulsorily for the purpose of any of its functions and to dispose of such land.

- f) The power to pay subscriptions to the funds of local authority associations.
- g) The duty (without prejudice to any other obligation) to exercise its functions with due regard to the need to prevent crime and disorder, the misuse of drugs and alcohol or re-offending in the Combined Area.
- h) The power under section 111 of the Local Government Act 1972 to do anything (subject to any other enactment) which is calculated to facilitate, or is conducive or incidental to the discharge of NECA's functions.

2.5.1 NECA is a local authority for the purposes of the Local Government Act 1972 and in particular section 101 of the Local Government Act 1972 (arrangements for the discharge of functions by local authorities).

2.5.2 NECA is a best value authority for the purpose of section 1 of the Local Government Act 1999.

2.5.3 NECA is a public body for the purpose of the Freedom of Information Act 2000.

2.5.4 NECA is a local authority for the purpose of the power of a Minister of the Crown to pay grants.

## Part 3 Responsibility for Functions

This part of the Constitution sets out which parts of NECA are responsible for carrying out particular functions and can also be referred to as their terms of reference.

### Part 3.1 The Leadership Board

Membership – 5 (one Member for each Constituent Authority and a non-voting LEP Member)

Quorum 3

**A Only the Leadership Board will exercise the following functions which require a unanimous vote in favour by all Constituent Authorities:**

1. The adoption of, and any amendment to or withdrawal of, any growth plan included in the Budget and Policy Framework.
2. The adoption of, and any amendment to or withdrawal of, any local transport plan under section 108(3) of the Transport Act 2000<sup>2</sup>.
3. The approval of, and any amendment to, NECA's annual budget excluding any spending plan related to the functions conferred upon the Joint Transport Committee.
4. The approval of, and any amendment to or withdrawal of, growth schemes set out in any adopted Growth Plan including the local major schemes devolved funding.
5. The approval of, and any amendment to or withdrawal of, borrowing limits, treasury management strategy including reserves, investment strategy and capital budget of NECA.
6. The approval of, and any amendment to or withdrawal of, such other plans and strategies as determined by the Leadership Board and included in the Budget and Policy Framework excluding any plans or strategies related to functions conferred upon the Joint Transport Committee.

**B Other functions reserved to the Leadership Board which do not require a unanimous vote in favour by the Constituent Authorities include (but are not limited to):**

7. The transfer of any further functions by the Constituent Authorities to NECA and the acceptance of those functions by NECA.

<sup>2</sup> It is noted that this obligation for unanimity is contained in the Order as amended by the Second Order (see Schedule 2, paragraph 3(6) of the Order as amended by Schedule 5, Part 2 of the Second Order). However, this is also a matter reserved for the unanimous decision of the Joint Transport Committee by virtue of Schedule 2, paragraph 3(5)(a) of the Second Order. Accordingly, whilst properly included in this Constitution, the Leadership Board will not exercise this power.

8. The transfer of further functions to the Joint Transport Committee.
9. The appointment of any individual co-optees to the Leadership Board.
10. The use of the general power of competence by NECA beyond the powers provided within the Local Democracy, Economic Development and Construction Act 2009.
11. The approval of any amendment to NECA's Constitution which has not been delegated to the Monitoring Officer (see Part 3.6 Scheme of Delegation of Functions to Chief Officers).
12. Adoption and amendment of any scheme of delegation or reservation of authority to Chief Officers or officers, any Delivery Agencies or committee or joint committee.
13. The appointment of a statutory chief officer (Head of Paid Service, Monitoring Officer and Chief Finance Officer).
14. The designation of NECA's Head of Paid Service.
15. Strategic influence of the development and operation of air, rail, road, river, sea and public transport networks.
16. The approval of (and any amendment to or withdrawal of) formal partnership agreements and arrangements with external partners and other stakeholders (e.g. central government, MPs/ MEPs, rail franchisors/franchisees) on strategic transport issues.
17. The approval of the policies and strategies to be included in the policy framework.
18. The approval of NECA's annual accounts.
19. The appointment of NECA's members to the Joint Transport Committee.
20. The appointment/selection of the Overview and Scrutiny Committee and any other committee or sub-committee as considered by the Leadership Board as appropriate to discharge its functions.
21. The appointment/selection of a Chair and Vice Chair of any committee or sub-committee.
22. The appointment of co-opted members to any of its committees or sub-committees.
23. The appointment of independent members of the Audit and Standards Committee and the Overview and Scrutiny Committee (which may be the Chair and Vice Chair of those committees).

24. The appointment of the Independent Person as required by the Localism Act 2011.
25. The appointment of any independent expert adviser for NECA or any of its committees or sub-committees.
26. The agreement to the establishment of working groups within NECA in connection with or in relation to the functions or responsibilities of the Authority undertaken by the Leadership Board, joint committees, committees or sub-committees of the Authority (the Overview and Scrutiny Committee is entitled to establish scrutiny groups without the agreement of the Leadership Board – see paragraph 20 of Part 4.4 Overview and Scrutiny Committee Rules of Procedure).
27. The designation of the Thematic Leads.
28. The suspension or dismissal of a statutory chief officer (Head of Paid Service, Monitoring Officer and Chief Finance Officer) and the appointment, suspension or dismissal of any deputy of such a statutory chief officer and the appointment, suspension or dismissal of any non-statutory chief officer or any deputy of such a non-statutory chief officer (See Part 4.5 Officer Employment Rules of Procedure).

Information:

1. The Order requires each constituent authority to appoint another of its elected members to act as a member of NECA in the absence of the member appointed to NECA. These appointments will usually be made by each Constituent Authority prior to the Leadership Board's Annual Meeting.

For more information on substitutes see the items of business for the Annual Meeting and ordinary meetings of the Leadership Board in Part 4 – Rules of Procedure.

## Part 3.2 Economic Development and Digital Advisory Board

Membership: 4 (one Member from each of the Constituent Authorities)

Quorum: 3 (not including the co-opted or LEP members)

Also: 1 non-voting member from the LEP  
Any non-voting co-opted members approved by the Leadership Board representing key sectors in the region including the North East Chamber of Commerce and the CBI and the FSB.

The aim of the Economic Development and Digital Advisory Board (EDDAB) is to support the Leadership Board in the development of the Economic Development and Digital Theme by:

- Making recommendations to the Leadership Board based on insight and intelligence that is not otherwise available to Board so that the decisions taken reflect the needs and ambitions of the key stakeholders in the region.
- Providing strategic advice and intelligence relating to key drivers of growth and barriers to investment and growth and other issues relevant to NECA's aim to pursue sustainable economic growth in the region.
- Advising and supporting NECA in the development of the Economic Development and Digital strategic priorities and implementation plans.
- Supporting the Economic Development and Digital Thematic Lead in the delivery of the Economic Development and Digital Implementation Plan.

The Leadership Board shall seek the advice and recommendations of the EDDAB on such economic development and regeneration matters as the Leadership Board considers appropriate, which shall include (but are not limited to):

1. The development of a Regional Investment Plan that will support economic growth and build on the opportunities presented by the region's growth assets.
2. The implementation of activity that is consistent with the strategic intent outlined in the Strategic Economic Plan and associated Economic Development and Digital Implementation Plan.
3. Recommendations on the allocation of resources and approval of funding proposals and the prioritisation of planned regional investment in infrastructure and assets.
4. Monitoring and overseeing collaborative initiatives to promote inward investment.
5. Commissioning provision that is consistent with the agreed objectives.
6. Ensuring that measures associated with the delivery of the Economic Development and Digital work programme are linked effectively with other related service areas.

7. Advising and approving evaluation measures for the Economic Development and Digital related activities.
8. Monitoring performance of the delivery of the Economic Development and Digital work programme.
9. Considering Economic Development and Digital related matters specifically referred to the Advisory Board by the Leadership Board.
10. Informing the evolution of Economic Development and Digital related activities, taking account of government policy, global trends and capability and capacity in the region.
11. Establishing and engaging in working groups formed to progress specific priorities with the Economic Development and Digital work programme.
12. Approve an Annual Report summarising the work of the Board over the previous year for submission to Annual Meeting of the Leadership Board.

Information:

1. The Advisory Board will be chaired by the Economic Development and Digital Thematic Lead.
2. One substitute member is permitted for each Constituent Authority.
3. A Vice-Chair will be appointed from the business representative co-opted members of the Advisory Board.



### 3.3 Audit and Standards Committee

- Membership: 6 One councillor from each Constituent Authority and two non-voting Independent Members who will act as Chair and Vice Chair.
- Quorum: 3<sup>3</sup> Not including the Independent Members or the Independent Person
- Also: 1 Independent Person for the purposes of the Standards regime who can be invited to observe at meetings

The Audit and Standards Committee is a key component of NECA's corporate governance arrangements and is an important source of assurance about the organisation's arrangements for managing risk, maintaining an effective control environment; reporting on financial and other performance; and for the promotion and maintenance of high standards of conduct by its elected and co-opted members.

The Committee will also review complaints made against Members in respect of alleged breaches of the Members' Code of Conduct in accordance with agreed adopted local arrangements (see Part 6.1 of the Constitution).

#### Terms of reference

The following functions are the responsibility of the Audit and Standards Committee:

#### Audit

1. To consider the effectiveness of NECA's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements, and seek assurance from the Head of Paid Service, Internal Audit and External Audit that action is being taken on risk related issues within the organisation.
2. To consider internal audit annual report and opinion; and consider a review of the effectiveness of the system of internal audit.
3. To consider a review of the effectiveness of the organisation's system of internal control on an annual basis. This will include consideration of the Annual Governance Statement, and whether this has been prepared in accordance with proper practices in relation to internal control, whether this properly reflects the risk environment, and whether this includes actions required for improvement. Following that consideration, the Audit and Standards Committee will approve the Annual Governance Statement.
4. To receive the following plans on an annual basis:

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<sup>3</sup> Note the requirements of Article 14 of SI 2017/68

- a) Internal Audit's Strategic Audit Plan, including Internal Audit's terms of reference, strategy and resources. The Audit and Standards Committee will approve, but not direct, the Strategic Audit Plan.
  - b) The External Auditor's Audit Service Plan, including details of any non-audit services provided.
5. To receive an interim and end of year report on the progress made by Internal Audit and External Audit in achieving their respective plans of work, so that the Committee may monitor performance in this regard.
  6. The Audit and Standards Committee may suggest that Internal Audit undertakes reviews into specific areas of concern. Internal Audit will then determine whether such work should be undertaken, having regard to the nature, materiality and gravity of the matter referred, and the corresponding importance of planned work which would be delayed by attending to the matter referred.
  7. The Audit and Standards Committee will receive external audit reports, including Annual Audit Letter, Fee Letter, Annual Governance Report, and other external audit reports as appropriate; and the reports of other regulatory and inspection agencies where these highlight internal control and risk issues.
  8. The Audit and Standards Committee will consider the scope and depth of external audit work to ensure it gives value for money.
  9. The Audit and Standards Committee will promote effective relationships between external audit and internal audit, inspection agencies and other relevant bodies, and champion the audit process.
  10. The Audit and Standards Committee will receive follow-up reports on the progress made in implementing agreed internal and external audit recommendations, in order that it may review this progress.
  11. The Audit and Standards Committee will review the accounting policies used to compile NECA's Statement of Accounts.
  12. The Audit and Standards Committee will review key information relating to NECA's Statement of Accounts.
  13. The Audit and Standards Committee will review the external auditor's opinion and reports on the statement of accounts, and monitor management action in response to any issues raised in relation to the accounts by external audit.
  14. The Audit and Standards Committee will ensure it is aware of the work undertaken by other committees, so it can take account of any significant internal control issues arising from this work.

### Standards

15. To promote and maintain high standards of conduct by NECA members and co-opted members.

16. To ensure NECA members and co-opted members observe the Members' Code of Conduct.
17. To advise the Leadership Board on the adoption or revision of the Members' Code of Conduct.
18. To monitor the operation of the Members' Code of Conduct.
19. To advise, train or arrange to train NECA members and co-opted members on matters relating to the Members' Code of Conduct and Disclosable Pecuniary Interests.
20. To grant dispensations to NECA members and co-opted members from requirements relating to interests set out in the Members' Code of Conduct.
21. To monitor complaints received by NECA in respect of Member conduct.
22. To review the Whistleblowing Policy and recommend any changes to the Monitoring Officer for consideration by the Leadership Board.
23. To conduct hearings following investigation and determine complaints made against members and co-opted members (including following requests for review).
24. Where a member or co-opted member is found to have failed to comply with the Code of Conduct to take such action as may be necessary to promote and maintain high standards of conduct, in accordance with the powers available to the Committee.
25. To review the assessment criteria for complaints against members and co-opted members (included in the Authority's adopted local arrangements) as it considers appropriate from time to time and recommend any changes to the Monitoring Officer for consideration by the Leadership Board.
26. To undertake such further functions as may be the responsibility of the Committee under NECA's adopted local arrangements in relation to the handling of complaints against members and co-opted members.
27. To appoint when required a Standards Sub-committee to conduct hearings and determine complaints of breaches of the Code of Conduct for Members and for granting dispensations for members with registerable and non-registerable personal interests to enable Members to participate and vote at committee meetings.
28. To appoint, when required, a Sub-committee for purposes determined by the Audit and Standards Committee, in relation to the discharge of its role.

Information:

1. Nothing in these terms of reference shall confer upon the Audit and Standards Committee the power to regulate or control the finances of NECA, in order to ensure that section 102(3) of the Local Government Act 1972 is not contravened.
2. The two co-opted Independent Members of the Audit and Standards Committee will fulfil the roles of Chair and Vice Chair of the Committee and will be appointed by the Leadership Board. Co-opted members can attend and speak at meetings of the Audit and Standards Committee to which they are appointed but cannot vote.
3. The Localism Act 2011 requires NECA to appoint at least one Independent Person for their views to be sought and taken into account before the Audit and Standards Committee makes its decision on an allegation about a Members' conduct which has been investigated and at other times when considered appropriate. An Independent Person's views may also be sought by a Member who is the subject of a misconduct complaint.
4. The Members' Code of Conduct and all codes and protocols can be found in Part 6 - Codes of Conduct and Protocols.
5. Substitute members may be appointed for voting members of the Audit and Standards Committee. The substitute member will be a member of the Constituent Authority's Standards or Audit Committee. There are no substitute members for a Sub-committee.

### **Standards Sub-committee**

- Membership: 3 To be selected from the voting members of the Audit and Standards Committee by the Monitoring Officer in consultation with the Chair of the Audit and Standards Committee.
- Quorum: 3 Not including the Independent Person.
- Also: 1 Independent Person for the purposes of the Standards regime who must be consulted as appropriate. The Chair or Vice Chair may be non-voting members of the committee and, in the same manner as the independent person, will not be counted towards the quorum.

### Terms of reference

1. To consider applications from members and co-opted members for dispensation from requirements relating to interests as set out in the Members' Code of Conduct.
2. To conduct hearings following an investigation to determine complaints made against members of the Authority (including following requests for review).
3. To receive the report from the Investigating Officer when no breach of the Code of Conduct has been found to have occurred and to determine whether to accept the report, refer the report to a hearing or refer it back to the Investigating Officer for further investigation.

4. To consider complaints of breaches of the Code of Conduct for Members received referred by the Monitoring Officer where the Monitoring Officer is unable to act because of a conflict of interest and to refer such a complaint for investigation if considered appropriate.
5. To undertake other functions of the Audit and Standards Committee as may be delegated to the Sub-committee in respect of complaints against the members and co-opted members of the Authority.

Information:

1. The Standards Sub-committee will conduct their proceedings in accordance with the Audit and Standards Committee procedure rules, subject to any modifications required to comply with NECA's adopted local arrangements in relation to the handling of complaints against members and co-opted members.
2. Membership of the Sub-committee will be determined by availability to attend and, where possible, drawn from different Constituent Authorities to those against whom the complaint has been made.

## Part 3.4 Overview and Scrutiny Committee

Membership:	8	Two Members from each Constituent Authority who are not Members of the Leadership Board or any other decision-making committee of NECA. The appointment of the Constituent Authority Members to the Committee will be based, so far as reasonably practicable, on the political balance that applies to the region as a whole at the time of appointment.
Also:	2	Non-voting Independent Chair and Vice-Chair
Quorum:	7	Including the non-voting Independent Chair or Vice-Chair

Effective scrutiny arrangements are an essential component of local democracy, enhancing accountability and transparency of decision making and enabling local councillors to represent the views of their constituents. These arrangements have been established to enable local councillors, on behalf of their communities, to scrutinise and challenge the Leadership Board and its relevant committees, and to investigate matters of strategic importance to residents within the Combined Area covered by the Constituent Authorities with a view to influencing the decisions.

The Overview and Scrutiny Committee will also investigate matters of strategic importance to residents within the Combined Area covered by the Constituent Authorities with a view to influencing decisions made in respect of all matters within the remit of NECA.

The Overview and Scrutiny Committee can:

1. Review and scrutinise the decisions made, or other action taken by, the Leadership Board in connection with the discharge of its functions.
2. Review or scrutinise a decision made in connection with the discharge of any functions which are the responsibility of the Leadership Board which have not been implemented and recommend that the decision be reconsidered by the Leadership Board.
3. Work closely with the Overview and Scrutiny Committee of the Joint Transport Committee to ensure effective and joined up scrutiny arrangements
4. Make reports or recommendations to the Leadership Board on the discharge of these functions.
5. Review and scrutinise the Leadership Board's initial and final proposals in respect of plans and strategies falling within the Budget and Policy Framework, in accordance with the Budget and Policy Framework Rules of Procedure (see part 4.4)

6. Establish a Call-in Sub-Committee to exercise call-in powers and consider decisions taken but not implemented (See Rule 22 of the Overview and Scrutiny Procedure Rules for information about the process for calling-in decisions).
7. Investigate matters of strategic importance to residents of the Constituent Authorities and make reports with evidence based recommendations to the Leadership Board.
8. Review the performance of the Leadership Board against objectives within the Combined Area's Strategy.
9. Facilitate the exchange of information about the work of the Leadership Board and the Joint Transport Committee and to share information and outcomes from reviews.
10. The role of these arrangements in relation to the Delivery Agencies will include:-
  - a) Review and scrutiny of the Nexus delivery of transport services against the Local Transport Plan and to make recommendations for improvement and/or changes; and
  - b) Obtaining explanations from Nexus regarding its delivery of transport services.
11. To establish working groups to consider any matter.

### **Proceedings**

The Overview and Scrutiny Committee will conduct their proceedings in accordance with Part 4.3 Overview and Scrutiny Committee Rules of Procedure.

## **Part 3.5 Joint Transport Committee (JTC)**

Together with the NoTCA, NECA appoints a Joint Transport Committee to exercise certain functions (prescribed by Article 9 of the Second Order (which are reproduced below) and other legislation). This appointment is made in accordance with the duties falling upon NECA by Article 8 of the Second Order.

This Committee is also constituted by NECA and NoTCA as a joint committee for the purposes of Section 102 of the Local Government Act 1972, where the functions of the Joint Transport Committee go beyond those prescribed by Article 9 of the Second Order.

Membership – 7 (being four members appointed by NECA and three members appointed by NoTCA in accordance with Schedule 2 of the Second Order). The Combined Authorities will also appoint substitute members as required by Schedule 2 of the Second Order.

Quorum – 4 (two members or substitute members from each Combined Authority).

### **Transport functions of Joint Transport Committee**

The JTC shall exercise the following functions on behalf of the Combined Authorities which, to the full extent necessary, are delegated to the Joint Transport Committee by NECA (and are delegated on similar terms by NoTCA):

- a) All the functions of an integrated transport authority which are exercisable by NECA by virtue of articles 6 and 7 of the Order.
- b) The functions of a county council which are exercisable by NECA by virtue of articles 8 and 9 of the Order.
- c) The functions of an integrated transport authority or county council which are exercisable by the Combined Authorities by virtue of Article 7(1)(a) to (c) and (4) to (7) of the Second Order.
- d) The functions of NECA as an Authority under Part 2 of the Transport Act 1968.
- e) The functions of NECA as a combined authority under Parts 4 and 5 of the Transport Act 1985.
- f) The functions of NECA as a local transport authority under Part 2 of the Transport Act 2000.
- g) Anything to be done in relation to the property, rights and liabilities held by NECA jointly with NoTCA previously owned by the Tyne and Wear Integrated Transport authority or subsequently acquired as a consequence of NECA being a successor of the Tyne and Wear Integrated Transport Authority.



- h) The setting of any transport levy to be issued pursuant to the Transport Levying Regulations 2002 as amended by the Second Order and issued in accordance with the Order and the Second Order.
- i) Such other functions which may be delegated to it from time to time by NECA or the NoTCA and accepted by the Joint Transport Committee.
- j) The authority to determine its own proceedings and to adopt rules and procedures, which when adopted will form part of the Constitutions (Standing Orders) of NECA and NoTCA.

**A Only the Joint Transport Committee will exercise the following functions which require a unanimous vote in favour by all members (or substitute members in their absence):**

1. The adoption of any transport plan under section 108(3) of the Transport Act 2000 and the alteration or replacement of that plan under section 109(1) and (2) of that Act.
2. Approval of, or any amendment to, or withdrawal of, spending plans related to the functions of the Joint Transport Committee.
3. Setting of any transport levy under section 74 of the Local Government Finance Act 1988 and in accordance with regulations made thereunder.
4. Allocation of local transport plan funding to the individual Local Authorities of the LA7 area and the Tyne and Wear Passenger Transport Executive, Nexus.
5. Delegation of any functions of the Joint Transport Committee.

**B All other questions that are to be decided by the Joint Transport Committee are to be decided by a majority of members, or substitute members acting in the place of members, present and voting on the question at the meeting of the Joint Transport Committee<sup>4</sup>, including:-**

6. The appointment of a host Combined Authority to hold, manage and account for the finances and staff deployed in relation to the discharge of transport functions in the Combined Area;
7. Determining its own rules of procedure for the conduct of its proceedings (which to the extent necessary will be incorporated into the Host Combined Authority's standing orders or constitution) subject to the provisions on the quorum and proceedings contained in Schedule 2 of the New Order;
8. The appointment of members to any sub-committee and any individual co-optees to the Joint Transport Committee or any sub-committee;
9. The appointment and dismissal of the Proper Officer for Transport;

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<sup>4</sup> Schedule 2, paragraph 3(1) of the Second Order

10. The approval of (and any amendment to or withdrawal of) all other major transport schemes (including such matters as Franchising Schemes, Advanced Quality Partnerships and/or Enhanced Partnership Plans and Schemes ) which are funded from the North East transport budget which is managed by the Joint Transport Committee;
11. The approval of (and any amendment to or withdrawal of) a public transport strategy across the Combined Area;
12. Decisions concerning the monitoring and overseeing of the activities and performance of the County Councils in the discharge of the transport functions delegated to them by the Joint Transport Committee;
13. Decisions concerning the monitoring the capital programme and the activities carried out by the Delivery Agencies;
14. Decisions concerning recommendation or comments on the adequacy of resources, capacity and expert support required to assist the Proper Officer for Transport and the Regional Transport Team to discharge their functions;
15. Decisions concerning governance including ensuring its own decision making is effective and ensuring the good governance of Nexus in accordance with the responsibilities applicable to the Combined Authorities as set out in the Transport Act 1968 and other relevant legislation;
16. Decisions concerning influence and/or co-ordination of strategic investment in the highway network across the administrative area of the Constituent Authorities;
17. Decisions concerning the co-ordination, with the statutory Highway Authorities, of the development of a joint highway management plan;
18. The strategic influence of the development and operation of air, rail, road, river, sea and public transport networks;
19. The approval of (and any amendment to or withdrawal from) formal partnership agreements and arrangements with external partners and other stakeholders (e.g. central government, MPs/MEPs, rail franchisors/franchisees, Transport for the North) on strategic transport issues;
20. The formulation, development and monitoring of procedures for public consultation on, and lobbying for, the North East's transport policies including taking responsibility for the active promotion of the transport interests of the administrative areas of the Constituent Authorities;
21. Advising upon the borrowing limits of the Host Combined Authority in relation to transport matters pursuant to Section 3 of the Local Government Act 2003;
22. The development of policies for the promotion and encouragement of safe, efficient and economic transport facilities and services;

23. The formulation of general policies with respect to the availability and convenience of public passenger services across the Combined Area pursuant to Section 9A(5)-(7) of the Transport Act 1968.
24. Make recommendations to the Leadership Boards of the Combined Authorities about any transport matter.
25. Do anything that it has the power to do in accordance with Article 9 of the Second Order or any other legislation specifying that particular transport functions are to be exercised by the Joint Transport Committee;
26. Acceptance of any transport functions delegated to it under Sections 101 and 102 of the Local Government Act 1972 by the Combined Authorities.

**Information:**

1. The Chair of the Joint Transport Committee will be selected annually by the Joint Transport Committee.
2. There will be a Vice Chair of the JTC selected annually by the Joint Transport Committee who will be drawn from the members of the Committee. By protocol the Chair and Vice Chair will be drawn one from each of NECA and NoTCA.
3. One named substitute member is permitted for each Constituent Authority.
4. Except for matters prescribed by Schedule 2, paragraph 3(5) – and detailed in Part A above – which must be decided by the unanimous vote in favour by all members or substitute members, any questions that are to be decided by the JTC will be decided by a majority of the members, or substitute members, of the JTC present and voting.
5. In accordance with a Deed of Co-operation made between the Constituent Authorities and the Combined Authorities on 4 July 2018 it has been agreed that:
  - a. The exercise of functions as set out above, the Joint Transport Committee shall not incur or cause to incur any expenditure other than that which the Joint Transport Committee has approved as the total budget relating to the discharge of transport functions and which is administered by the host Combined Authority for such purpose; and

The Joint Transport Committee shall have no authority in relation to the Highways Maintenance Block Funding which shall be paid individually to the Constituent Authorities in the amounts specified by the Department for Transport.

**Committees of the Joint Transport Committee**

The Joint Transport Committee shall have three committees and may form additional committees in accordance with its own rules and procedures:

- a. A JTC Tyne and Wear sub-committee

- b. A JTC Overview and Scrutiny Committee (in accordance with Paragraph 4 to Schedule 2 of the Second Order)
- c. A JTC Audit Committee (as required by the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 as amended by the Second Order)

### ***Joint Transport Committee – Arrangements for the exercise of functions***

The Joint Transport Committee is anticipated to make arrangements for the exercise of certain functions by:

- 1. The County Council of Durham
- 2. Northumberland County Council
- 3. Nexus
- 4. The Proper Officer for Transport (or as the case may be other officers of either Combined Authority – NECA or NoTCA)
- 5. NECA, as its accountable body

### **Exercise of functions by County Councils**

Arrangements will be made for the exercise of the following transport functions by the County Council of Durham and Northumberland County Council in relation to their respective administrative areas.

- 1. Considering and recommending to Joint Transport Committee the creation and development of:-
  - i) Quality Partnership Schemes pursuant to sections 114-123 of the Transport Act 2000; and
  - ii) Quality Contracts Schemes pursuant to sections 124-134 of the Transport Act 2000.
- 2. Implementing Concessionary Travel Schemes pursuant to sections 93 -105 of the Transport Act 1985.
- 3. Implementing ticketing schemes pursuant to sections 135-138 of the Transport Act 2000.
- 4. Determining the operation, performance and development of accessible transport provision (including the provision of grants) pursuant to section 106 of the Transport Act 1985.
- 5. All obligations of County Councils relating to mandatory travel concessions pursuant to sections 145A to 150 of the Transport Act 2000.
- 6. Those functions of County Councils set out in Part IV of the Transport Act 1985 (Passenger Transport in areas other than Integrated Transport Areas) under:
  - section 63 – functions of local Councils with respect to passenger transport

- section 81 – provision, maintenance and operation of bus stations
- section 82 – bus stations: restriction on discriminatory practices.

### **Delegations to Nexus**

By virtue of the Order and Second Order Nexus is an Executive Body and officer of NECA and NoTCA for the purposes of Section 101 of the Local Government Act 1972 and the following functions are delegated to it by NECA, as a result of NECA acting as the JTC's accountable body:

The opportunity can be taken to clarify the authority levels held by Nexus and when a transaction of a certain value must be referred upto the Tyne and Wear Committee.

- Delegations – acquisition and disposal of assets with the Tyne and Wear area up to a value of £250,000 per transaction (see paragraph 10 of TWSC paper dated 9 October 2014).

### **Delegation to the Proper Officer for Transport**

In accordance with Article 9(5) of the Second Order the Joint Transport Committee must designate a Proper Officer for Transport being the principal officer to assist the committee in exercising its functions. For these purposes the term Proper Officer has the same meaning as in Section 270(3) of the Local Government Act 1972.

The Joint Transport Committee has made the following delegations to the Proper Officer for Transport (together with the authority to sub-delegate to officers under the Proper Officer's direction and control):

The Proper Officer for Transport, as authorised by Article 9 of the Second Order, may exercise the delegated powers set out below in accordance with all applicable legislation, the Rules of Procedure and Financial Regulations of NECA and/or the JTC.

- The day to day routine management supervision and control of services provided for the JTC by staff under his/her control.
- In relation to staff and staffing matters within his/her direct or indirect line management responsibility:
  - Day to day management of staff
  - Appointment, dismissal and disciplinary action powers
  - Determination of staff grievances
  - Determination of applications for paid and unpaid leave and overtime, expenses, loans and ex-gratia payments
  - Determination of the payment of removal expenses, lodging allowances or travelling allowances
  - Determination of the proposals to attend training courses

Contracts and Accounts:

- The disposal of surplus or obsolete equipment to the person submitting the highest quotation up to a limit of £10,000 in value
- The acceptance of the tender or quotation duly assessed as being the lowest or the most economically advantageous:
- For the supply of goods, materials or services for which financial provision has been made in JTC's Revenue Budget up to a limit of £100,000 in value for any one transaction, and
- For building and civil engineering works provided that the value of the tender is within the estimate previously approved by the JTC and does not exceed £250,000
- The invitation of quotations for contracts not exceeding £25,000 in value for the supply of goods, materials or services or the execution of works from at least three persons, subject to financial provision having been made in the Revenue or Capital Budget of the JTC.
- The provision of services or the purchase of materials or minor items of equipment up to a total of £10,000 within one order or series of related orders for which provision has been made in the revenue estimates.

Subject to the agreement of the Chief Finance Officer:

- To negotiate and agree price increases where a contract provides for such increases to be negotiated and agreed by the parties
- Where a contract contains provision for the extension to the contract period, the exercise of such extensions
- Agreeing the assignment or novation of a contract
- Write off debts up to an individual limit of £10,000

- Subject to the agreement of the Monitoring Officer and Chief Finance Officer (and any other consents or approvals required to be obtained under any enactment or contractual obligation):
  - To acquire by agreement any interest in land and property up to a value of £250,000 provided there is appropriate capital provision
  - To accept any offer or tender and agree and arrange for the disposal of any interest in land or property, provided the offer or tender does not exceed £250,000 and is the best consideration that can reasonably be obtained
  - To dispose of any interest in land or property at less than best consideration where the disposal will help the JTC secure the promotion or improvement of the economic, social or environmental well-being of the area
  - To grant access to land or property by third parties for filming, performance or educational purposes for any consideration (or none) considered appropriate
  - To make compensation payments relating to the new Tyne crossing
  
- In agreement with the Monitoring Officer:
  - To secure, receive and act upon notices, give or refuse consents, issue determinations, apply for permissions, make orders, grant licences, request the Monitoring Officer to take legal action, or take any other appropriate action to safeguard or promote the interests of the JTC or to prevent or mitigate harm to persons, property or the environment
  - To enter into contract documentation following tender/bid acceptance
  
- To authorise in writing other employees under his/her control to act on his/her behalf in the exercise of delegations.
  
- The Proper Officer for Transport should not exercise these delegated powers where:
  - The matter or function is reserved to the JTC or NECA
  - The matter or function cannot by law be discharged by an officer
  - The Head of Paid Service, the Monitoring Officer or the Chief Finance Officer has directed that a delegated function should not be exercised in any particular instance
  - The JTC or NECA or any sub-committee has determined that a delegated function should not be exercised in any particular instance
  
- Before exercising delegated powers, the Proper Office for Transport should consider the appropriateness of exercising such powers bearing in mind any strategic, reputational or financial impact and should consult the Head of Paid Service, Monitoring Officer and Chief Finance Officer if in any doubt.

## **Relationship with the Host Combined Authority**

NECA has been appointed by the Joint Transport Committee ([and with the agreement of the Local Authorities of the LA7 Area in accordance with an accountable body agreement]) and has agreed to act as its accountable body and assume accountable body responsibilities.

As accountable body NECA is responsible for overseeing the legal and financial management of all regional transport resources, recognising that the assets are, in many cases, jointly owned by the Combined Authorities. This includes:

1. Entering into contracts, grants and other agreements to give effect to decisions of the Joint Transport Committee, managing its funding and all financial matters.
2. Ensuring the availability of resources necessary to discharge accountable body responsibilities including the employment of staff and ensuring sufficient availability of Head of Paid Service, Chief Financial Officer, Monitoring Officer (Chief Legal Officer) and Scrutiny Officer, subject only to necessary financial contributions being received from the Constituent Authorities.

NECA acknowledges that its roles as accountable body is one of administration and management to implement the decisions and directions of the Joint Transport Committee and does not involve the commercial or economic review of any decision or direction of the Joint Transport Committee or any committee holding decision making authority. However, NECA shall not be obliged to act upon any decision or direction of the Joint Transport Committee or any such committee which is:

- a. Not made in accordance with these Standing Order and Rules of Procedure;
- b. Not made with any agreement between the Combined Authorities or the Local Authorities of the LA7 Area;
- c. Inconsistent with the principles of probity and sound financial practice.
- d. Inconsistent with public law principles;
- e. Illegal.

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<sup>6</sup>The Proper Officer for Transport is covered by the delegations applicable to a chief officer/service director in the NECA Scheme of Delegation (and, as DG Nexus, the Nexus Scheme of Delegation)



## Part 3.6 Proper Officers

Section 112(1) of the Local Government Act 1972, provides that NECA shall appoint such officers as it thinks necessary for the appropriate discharge by the Leadership Board of such of its functions as fall to be discharged by them.

There are a number of specific references in the 1972 Act and the 1985 Local Government Act, which call for functions to be undertaken by what is termed the 'Proper Officer'. The following lists such references and identifies the Chief Officers responsible for their discharge.

### A Head of Paid Service

The Head of Paid Service is responsible for the corporate and overall strategic management of NECA's staff in accordance with section 4 of the Local Government and Housing Act 1989.

The Head of Paid Service cannot be the Monitoring Officer.

### B Monitoring Officer

Under the provisions of the Local Government and Housing Act 1989, the Leadership Board shall appoint a Monitoring Officer who will be responsible for promoting and maintaining high standards of conduct. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budgetary issues to all Members and provide a comprehensive administrative service to NECA.

The Monitoring Officer to NECA is appointed the Proper Officer in relation to the following under the Local Government Act 1972:

- a) Determination of those reports which should be available for public inspection prior to a meeting of the Leadership Board, the EDRAB and any Committee or Sub-committee of the Leadership Board and those which are likely to be heard in private and consequently which should not be released to the public (section 100B (2)).
- b) Provision of documents to the press, additional to committee reports (section 100B (7)).
- c) Preparing written summaries of proceedings (section 100C (2)).
- d) Making arrangements for list of, and background papers to reports, to be made available for public inspection (section 100D (1)).
- e) Determination of documents disclosing exempt information which may not be inspected by Members (section 100F (2)).
- f) Signature of Summonses to NECA (paragraph 4 (2) (b) of Schedule 12).
- g) Receipt of notices regarding address to which Summonses to meetings of NECA are to be sent (paragraph 4 (3) of Schedule 12).
- h) Declaration and Certificates with regard to securities (section 146 (1)(a) and (b)).
- i) Deposit of documents (section 225 (1)).
- j) Certifications of photographic copies of documents (section 229 (5)).

- k) Issuing and signing of formal notices (section 234 (1) and (2)).

- l) Serving copies of Byelaws (section 236 (9) and (10)).
- m) Certification of Byelaws (section 238).

The Monitoring Officer will maintain an up to date Register of Member's interests and an up to date version of the Constitution and will ensure that it is widely available for consultation by Members, officers and the public.

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Standards Committee and be the Proper Officer for receipt and acknowledgement of complaints of failure by a Member of NECA to comply with the Members Code of Conduct.

The Monitoring Officer is also responsible for promoting the role of the authority's overview and scrutiny committee; providing support to the authority's overview and scrutiny committee and its members; and to provide support and guidance to members and officers of the authority in relation to the functions of the overview and scrutiny committee.

The Monitoring Officer cannot be the Head of Paid Service or the Chief Finance Officer.

### **C Chief Finance Officer**

The Chief Finance Officer has responsibility for ensuring lawfulness and financial prudence of decision making. The Chief Finance Officer is appointed Proper Officer in relation to the following:

- a) receipt of money due from officers (Local Government Act 1972, section 115 (2); and
- b) administration of the financial affairs of NECA (Local Government Act 1985 section 73).

### **D General**

All officers in whose name reports are submitted to the Leadership Board, the EDDAB, or any Committee or Sub-committee of the Leadership Board via the Monitoring Officer and Chief Finance Officer are appointed the Proper Officers in relation to the following under the Local Government Act 1972:

- a) Compilation and retention of lists of background papers and copies of the relevant documents and reports (section 100D (1) (a)).
- b) Identifying and determining what are background papers (section 100D (5)).

## Part 3.7 Scheme of Delegation of Functions to Chief Officers

1. Section 101 of the Local Government Act 1972 enables NECA to delegate any of its functions to its officers. This part of the Constitution specifies those powers of the Leadership Board which, for the time being, are exercisable from time to time by officers of NECA and stating the title of the officer in question by whom the powers are exercisable.
2. Chief Officers in the context of this Constitution mean the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.
3. The delegated powers of Chief Officers set out in this Scheme may be exercised by other officers authorised by the Chief Officer with the delegated power to act on their behalf and in their name, provided that administrative procedures are in place to record the authorisation and monitor decisions taken.
4. The exercise of delegated powers by officers is required to be in accordance with:
  - a) Statute or other legal requirements, including the principles of public law, the Human Rights Act 1998, statutory guidance and statutory codes of practice;
  - b) this Constitution, the Leadership Board's Rules of Procedure and Financial Regulations currently in force;
  - c) the revenue and capital budgets of NECA, subject to any variation thereof which is permitted by NECA's Financial Regulations; and
  - d) any policy or direction of the Leadership Board, committee or any other committee acting in exercise of powers delegated to that committee by NECA.
5. Officers may **not** exercise delegated powers where:
  - a) the matter is reserved to the Leadership Board by law or by this Constitution;
  - b) the matter is a function which cannot by law be discharged by an officer;
  - c) the Leadership Board, or a committee, sub-committee or joint committee to which NECA is a party, has determined that the matter should be discharged otherwise than by an officer;
  - d) the Head of Paid Service has directed that the officer concerned should not exercise a delegated function in special circumstances.
6. Before exercising delegated powers, particularly on matters involving the reputation of NECA, officers should consider the advisability of consulting the Head of Paid Service and/or the Chair of the Leadership Board.
7. Where, in relation to an item before the Leadership Board, a joint committee, committee or sub-committee, a Chief Officer is given specific authority to determine a particular matter, the officer should ensure that there is an appropriate audit trail to evidence such determination.
8. Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment or re-enactment of the same.

## **A General Delegations to all Chief Officers**

GD1 The day to day routine management, supervision and control of services provided for NECA by staff under their control in accordance with the Rules of Procedure and Financial Regulations of NECA.

### **Contracts and Accounts**

GD2 The disposal of surplus or obsolete equipment to the person submitting the highest quotation up to a limit of £10,000 in value.

GD3 The acceptance of the lowest tender or quotation:

- a) For the supply of goods, materials or services for which financial provision has been made in NECA's Revenue Budget up to a limit of £100,000 in value for any one transaction, and
- b) For building and civil engineering works provided that the value of the tender is within the estimate previously approved by the Leadership Board and does not exceed £250,000.

GD4 The invitation of quotations for contracts not exceeding £25,000 in value for the supply of goods, materials or services or the execution of works from at least three persons, subject to financial provision having been made in the Revenue or Capital Budget of NECA.

GD5 The provision of services or the purchase of materials or minor items of equipment up to a total of £10,000 within one order or series of related orders for which provision has been made in the revenue estimates.

## **B. Delegations to the Head of Paid Service**

HPS1 To discharge the functions of the Head of Paid Service in relation to NECA as set out in section 4 of the Local Government and Housing Act 1989. The duties of the Head of Paid Service are to report to the Leadership Board where necessary setting out proposals with respect to the coordination of NECA's functions, the number and grades of staff required and the organisation, appointment and proper management of NECA's staff.

HPS2 To engage officers on behalf of NECA to coordinate its functions.

HPS3 To discharge any function of NECA which has not been specifically delegated to another officer, Committee or reserved to the Leadership Board under Part 3.1 of this Constitution, and may direct any officer not to exercise a delegated function in special circumstances unless they are required to do so by law.

HPS4 Take any operational action which is required as a matter of urgency in the interests of NECA, in consultation (where practicable) with the Chair of the Leadership Board, the Monitoring Officer and the Chief Finance Officer.

HPS5 Take preliminary steps to protect the rights and interests of NECA subject

to consultation with the Chair of the Leadership Board in relation to any Bill or Statutory Instrument or Order in Parliament.

- HPS6 To conduct before either House of Parliament any proceedings (including the retention of Parliamentary Agents and Counsel) connected with the passage of any Private Bill which NECA has resolved to promote or oppose, including the negotiation and agreement of amendments to any such Bill, and the negotiation and approval of any terms, agreement or undertaking offered in consideration of NECA not opposing any Private Bill.
- HPS7 Nominate, appoint and remove, in consultation with the Chair and Vice Chair of the Leadership Board, NECA representatives on the board of companies, trusts and other bodies, and to agree constitutional arrangements for such companies, trusts and other bodies, and give any necessary consent required within relevant constitutions.
- HPS8 To provide a comprehensive policy advice service to the Leadership Board and its committees and in particular to advise on NECA's plans and strategies included in the Budget and Policy Framework.
- HPS9 Control and co-ordinate press and media relations, the organisation of press conferences, publicity and public relations within prescribed policy including approval of the issue of all official NECA publicity and official publications.
- HPS10 To be the authorised representative of NECA in respect of any company established pursuant to section 323 of the Companies Act 2006 (as amended) and any other company of which NECA is a member.
- HPS11 In consultation with the Chair of the Leadership Board, be authorised to make further amendments to appointments where appropriate, and absolutely necessary, and in accordance with the requirements for achieving political balance.

## **C Delegations to the Chief Finance Officer**

- CFO1 To effect the proper administration of NECA's financial affairs particularly in relation to financial advice, procedures, records and accounting systems, internal audit and financial control generally.
- CFO2 The taking of all action required on borrowing, investment and financing subject to the submission to the Leadership Board of an annual report of the Chief Finance Officer on treasury management activities and at six- monthly intervals in accordance with CIPFA's Code of Practice for Treasury Management and Prudential Codes.
- CFO3 To effect all insurance cover required in connection with the business of NECA and to settle all claims under such insurances arranged for NECA's benefit.

- CFO4 The preparation of manuals of financial and accounting procedures to be followed by officers of the Constituent Authorities working on NECA matters.
  
- CFO5 To accept grant offers on behalf of NECA, subject to all the terms and conditions set out by the grant awarding body.

- CFO6 The submission of all claims for grant to the UK Government or the European Community (EC).
- CFO7 To make all necessary banking arrangements on behalf of NECA, to sign all cheques drawn on behalf of NECA, or make arrangements for cheques to be signed by other officers or to arrange for such cheques to bear the facsimile signature of the Chief Finance Officer.
- CFO8 To monitor capital spending and submit a report to the Leadership Board at not more than quarterly intervals. This report will separately identify the capital expenditure relating to schemes promoted by NECA and those via Nexus.
- CFO9 In relation to revenue expenditure under the control of officers, to consider reports of officers on any likely overspending, and to approve transfers between expenditure heads up to a maximum of £25,000, provided that, where it is not possible to finance an overspending by such a transfer, the matter shall be referred to the Leadership Board for consideration of a supplemental estimate.
- CFO10 The collection of all money due to NECA, and the writing off of bad debts.
- CFO11 To supervise procedures for the invitation, receipt and acceptance of tenders.
- CFO12 To administer the scheme of Members' allowances.
- CFO13 To discharge the functions of the 'responsible financial officer' under the Accounts and Audit (England) Regulations 2011 including the requirement under Regulation 8(2) to sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of NECA at the end of the year to which it relates and of NECA's income and expenditure for that year.
- CFO14 To discharge the functions of NECA under the Accounts and Audit (England) Regulations 2011 (with the exception of Regulations 4(3), 6(4) and 8(3)).
- CFO15 To sign certificates under the Local Government (Contracts) Act 1997.
- CFO16 To be the officer nominated, or to nominate in writing another officer, as the person to receive disclosures of suspicious transactions for the purposes of the Proceeds of Crime Act 2002 and any Regulations made thereunder.
- CFO17 To determine an amount (not exceeding the sterling equivalent of €5,000) being the maximum sum which NECA will receive in cash without the express written consent of the Chief Finance Officer.
- CFO18 To exercise the responsibilities assigned to the Chief Finance Officer in the Financial Regulations and the Contract Procedure Rules.



### **Supporting the Audit Regime**

CFO19 Support the Audit and Standards Committee to:

- a) provide independent assurance on the effectiveness of the risk management framework and the associated control environment;
- b) provide independent examination of the organisation's performance and how this affects NECA's control environment and its exposure to risk; and
- c) oversee the financial reporting process.

## **D Delegations to the Monitoring Officer**

MO1 The Monitoring Officer is authorised to:

- a) institute, defend or participate in any administrative action and/or in any legal proceedings;
- b) sign any document in any case where such action will facilitate the carrying out of decisions of the Leadership Board; or in any case where the Monitoring Officer considers that such action is necessary to protect NECA's interests, or to further or achieve the objectives of NECA; and
- c) settle or otherwise compromise any such administrative action or legal proceedings if they have been commenced or there are reasonable grounds for believing such actions or proceedings may be contemplated.

MO2 After consulting with the Head of Paid Service and Chief Finance Officer, to report to the Leadership Board if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration as determined by the Local Government Ombudsman. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

MO3 To provide a comprehensive administrative service to NECA.

MO4 To accept on behalf of the Leadership Board in-year changes to the membership of committees, sub-committees and joint committees. These changes must be notified in writing to the Monitoring Officer and will be effective when receipt of the notification is acknowledged in writing by the Monitoring Officer.

MO5 To make minor changes to the Constitution and its associated documents to reflect organisational or legislative change when the power remains unaltered.

MO6 To make any textual or grammatical corrections to the Constitution and its associated documents.

**Supporting the Standards Regime**

- MO7 To be the Proper Officer for receipt and acknowledgement of complaints of failure to comply with the Members' Code of Conduct under NECA's adopted local arrangements.
- MO8 To review complaints received in respect of any alleged breach by a Member of the Code of Conduct for Members and to act in accordance with NECA's adopted local arrangements.
- MO9 The Monitoring Officer will either conduct or arrange for investigations to be conducted into alleged breaches of the Members' Code of Conduct referred to him/her by the Head of Paid Service or the Audit and Standards Committee and, as appropriate, submit such reports to the Audit and Standards Committee in accordance with NECA's adopted local arrangements.
- MO10 The Monitoring Officer will undertake, at the request of the Head of Paid Service or the Audit and Standards Committee, informal resolution of such complaints in accordance with NECA's adopted local arrangements.

## Part 4 Rules of Procedure

These Rules apply to all meetings of the Leadership Board, the EDRAB, committee or sub-committee as appropriate (see paragraph 22 of Part 4.1) and should be read in conjunction with other parts of this Constitution.

References in these Rules to the 'Chair' mean the member of the Leadership Board, joint committee, committee or sub-committee for the time being presiding at the meeting.

These Rules are subject to any statute or other enactment whether passed before or after these Rules came into effect.

### 4.1 Leadership Board Rules of Procedure

#### The Annual Meeting

The Annual Meeting will take place in May or June.

The Annual Meeting will:

- a) elect a person to preside if the Chair of the Leadership Board is not present;
- b) elect the Chair of the Leadership Board;
- c) elect the Vice Chair of the Leadership Board;
- d) approve the minutes of the last meeting;
- e) receive any announcements from the Chair and/or the Head of Paid Service;
- f) appoint the Overview and Scrutiny Committee and any other committee or sub-committee considered necessary and agree a timetable of meetings;
- g) agree the membership of EDDAB and any other relevant committee or joint committee as nominated by each appropriate Constituent Authority<sup>7</sup> and to nominate members for the Joint Transport Committee, JTC Tyne and Wear Committee and its other committees and sub-committees;
- h) appoint the Chair of any of the bodies referred to in f) above;
- i) appoint the Vice Chair of any of the bodies referred to in f) above;
- j) select the Chair and Vice Chair of any of the bodies referred to in g) above;
- k) agree any delegation of functions to the bodies referred to in f) and g) above;
- l) designate the Thematic Leads;

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<sup>7</sup> Any in-year changes can be agreed by the Monitoring Officer. See MO4 in Part 3.7 Scheme of Delegation of Functions to Proper Officers, D Monitoring Officer.

- m) approve the policies and strategies to be included in the budget and policy framework; and
- n) conduct any other business reserved for its Annual Meeting as set out in Part 3 - Responsibility for Functions in accordance with the following procedure rules.

### **Ordinary Leadership Board Meetings**

Ordinary meetings of the Leadership Board will take place in accordance with a programme decided by the Leadership Board.

Ordinary meetings will:

- a) elect a person to preside if the Chair and Vice Chair are not present;
- b) approve the minutes of the last meeting;
- c) receive any declarations of interest from Members;
- d) receive any announcements from the Chair and/or the Head of Paid Service;
- e) deal with any uncompleted business from the last Leadership Board meeting;
- f) receive and consider reports from its Committees and Sub-committees;
- g) conduct any business reserved for it in accordance with Part 3 - Responsibility for Functions and specified in the summons to the meeting in accordance with the following procedure rules; and
- h) authorise the sealing of documents.

### **1. Chair and Vice Chair**

The Chair and Vice Chair shall be selected annually by the Leadership Board from amongst its Members and shall, unless they resign, cease to be members of NECA or become disqualified, act until their successors become entitled to act as Chair or a Vice Chair.

The election of the Chair and Vice Chair shall be the first item of business at the Annual Meeting of the Leadership Board.

Subject to any Rules made by the Leadership Board, anything required to be done by, to or before the Chair may be done by, to or before a Vice Chair.

At a meeting of the Leadership Board the Chair shall preside. If the Chair is absent a Vice Chair shall preside. If both the Chair and Vice Chair are absent, such other Member present may choose to preside with the agreement of the other Members present.

Any power or duty of the Chair in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

The ruling of the Chair on the interpretation of these Rules in relation to all questions of order and matters arising in debate shall be final.

## **2. Meetings of the Leadership Board**

In addition to the Annual Meeting and any meeting convened by the Chair or by Members, meetings for the carrying out of general business shall be held in each year at the times and on the dates fixed at the Annual Meeting.

## **3. Extraordinary Meetings**

Those listed below may request the Monitoring Officer to convene a Leadership Board meeting in addition to ordinary meetings:

- a) the Leadership Board by resolution;
- b) the Chair of the Leadership Board; and
- c) any three Members if they have signed a requisition presented to the Chair of the Leadership Board and the Chair has refused to convene a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

The agenda for the extraordinary meeting will include the resolution, request or requisition which led to it being called and any other business agreed by the Chair, or in their absence a Vice Chair of the Leadership Board, the Monitoring Officer and the Head of Paid Service. No further item of business may be conducted at an extraordinary meeting of the Leadership Board other than that specified in the agenda for the meeting unless the Chair, or in their absence a Vice Chair, agree the matter is urgent and requires a decision before the next ordinary meeting of the Leadership Board. The report submitted to the extraordinary meeting will set out the reason why the matter could not be determined at the next ordinary meeting of the Leadership Board and this reason will be recorded in the minutes of the meeting.

## **4. Summons**

At least five clear days before a meeting the Monitoring Officer shall arrange for a notice of the time and place of the intended meeting to be published at his/her office. Where the meeting is called by Members that notice is to be signed by those Members and specify the business proposed. A summons to attend the meeting, specifying the proposed business and signed by the Monitoring Officer, is to be left at, or sent by post or email to, the usual place of residence or registered email address of every Member or to such other place or address as may be requested by a Member.

Except in the case of business required by statute to be transacted at the Annual Meeting no business shall be transacted at a meeting other than that specified in the summons.

## 5. Quorum

The quorum of the Leadership Board shall be at least two thirds of members save for items of business that require a unanimous decision in which case the quorum is four voting members. No business shall be transacted at any meeting unless a quorum is present.

If a quorum is not reached 15 minutes after the time appointed for the start of the meeting, the meeting will be reconvened on another date.

During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately.

Remaining business will be considered at a time and date fixed by the Chair. If the Chair does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 6. Duration

At any meeting which has sat continuously for three and a half hours, the Chair shall have discretion to adjourn the meeting for a short period of time unless the majority of Members present, by vote, determine it shall stand adjourned to another day, the date and time of which shall be determined by the Chair.

## 7. Declaration of Interests in Meetings

Where a Member attends a meeting of the Leadership Board they must declare registerable and non-registerable personal interests as defined in the Members' Code of Conduct either at the start of the meeting, or otherwise as soon as the interest becomes apparent in the course of the meeting.

In addition, where in relation to any meeting a Member has declared a registerable or non-registerable personal interest in a matter, and the criteria contained in paragraph 17 of the Members' Code of Conduct apply, the Member must leave the room for the duration of the discussion on that matter.

## 8. Access to information

In accordance with the Local Government Act 1972 as amended:

- a) All meetings of the Leadership Board, its joint-committees, committees and sub-committees shall be open to the public unless it is likely in view of the nature of the business to be transacted that either confidential information (as defined in section 100A (3) of the 1972 Act) or information falling within one of the categories of exempt information in Schedule 12A (as amended) of the 1972 Act would be disclosed.
- b) Members of the public and media may take photographs, film, audio-record or report via social media the proceedings of any meeting of the Leadership Board, its joint-committees, committees and sub-committees where the meeting is open to the public. The Chair of the meeting may withdraw consent to film, record or

photograph a meeting at any time in the event that it is carried out in a manner that interferes with the proper conduct of the meeting.

- c) Copies of the agenda, and reports open to the public will be available for public inspection at least five clear days before a meeting. If an item is added to the agenda later, the revised agenda and any additional report will be open to inspection from the time it was added to the agenda.
- d) NECA will make available for public inspection for six years after a meeting the minutes of the meeting (but excluding any part of the minutes when the meeting was not open to the public or which disclose confidential or exempt information), a summary of any proceedings not open to the public where the minutes open to inspection would not otherwise provide a reasonably fair and coherent record, the agenda for the meeting and reports relating to items when the meeting was open to the public.
- e) The author of any report will set out in it a list of those documents (called background papers) relating to the report which in his/her opinion disclose any facts or matters on which the report is based and which have been relied on to a material extent in preparing the report (except for documents which are published works or which disclose confidential or exempt information). Such background papers will remain available for public inspection for four years from the date of the meeting.
- f) Where information is withheld under these provisions the fact must be made known to the member of the public concerned who shall be advised of the categories of information being withheld and the way in which the withholding can be challenged.

## **9. Disturbance**

No member of the public shall interrupt or take part in the proceedings of any meeting. If any member of the public interrupts or takes part in the proceedings at any meeting, the Chair shall warn him/her and if he/she continues the interruption the Chair shall order his/her removal.

The Chair may at any time, if he/she thinks it desirable in the interests of order, adjourn or suspend a meeting for a time to be named by him/her.

## **10. Order of Business**

The Leadership Board on a motion duly seconded and carried without debate, or on motion by the Chair, which shall not require to be seconded, may vary the order of business as set out on the agenda.

## 11. Motions and Amendments

### Notice

- (1) A Member may by notice of motion given in writing raise any matter relating to the functions of the Leadership Board.
- (2) Notice of every motion, other than a motion which under Rule 11 (8) may be moved without notice, shall be signed by the Member giving the notice, and delivered not later than seven working days before the day of the meeting at the office of the Monitoring Officer, by whom it shall be dated.
- (3) The Monitoring Officer shall include in the summons for every meeting all motions of which notice has been duly given in the order in which they have been received, unless the Member giving such notice indicated in writing, when giving it, that he/she proposed to move it at some later meeting, or has since withdrawn it in writing.
- (4) If a motion included in the summons is not moved either by the Member who gave notice of the motion or by some Member on his/her behalf it shall, unless postponed by consent of the Leadership Board, be treated as withdrawn and shall not be moved without fresh notice.
- (5) No motion to rescind any resolution passed within the last six months shall be proposed unless the notice thereof bears the names of at least two Members of the Leadership Board. When any such motion has been disposed of by the Leadership Board it shall not be open to any Member to propose a similar motion within a further period of six months unless the suspension of Standing Orders has been carried.
- (6) A motion or amendment may be withdrawn by the mover with the consent of his/her seconder and of the Leadership Board, which consent shall be signified without debate, and no Member may speak upon it after the mover has asked permission for its withdrawal unless such permission shall have been refused.

### Amendments

- (7) Any member who intends to move an amendment to a motion included on the agenda for a meeting shall give written notice of the amendment (before noon on the day before the meeting) to the Monitoring Officer who will notify the Chair, the Vice Chair or other Member likely to preside at the meeting.

The Chair may in his/her discretion waive the requirements to comply with Rule 11 (7) but unless there are exceptional circumstances, a request of the Chair to exercise such discretion should be made before the meeting.

The amendment must be relevant to the motion and cannot negate the motion.

### Motions without notice

- (8) The following motions and amendments may be moved without notice:



- a) appointment of a Chair of the meeting at which the motion is made;
- b) motions relating to the accuracy of the minutes, closure adjournment, proceeding to the next business, or the motion “that the question be now put”;
- c) variation of the order of business;
- d) appointment of a committee or members of committee, arising from an item on the agenda of the meeting;
- e) that leave be given to withdraw a motion;
- f) suspension of these Rules;
- g) a motion under Section 100(A)(4) of the Local Government Act 1972 to exclude the Press and Public;
- h) that a Member named under Rule 13(6) not be heard further or do leave the meeting;
- i) that a deputation be received; or
- j) giving the consent of the Leadership Board where such consent is required under these Rules.

### During debate

- (9) When a motion is under debate, no further motion shall be received except the following:
  - a) to amend the motion (in these Rules called “an amendment”);
  - b) that the Leadership Board do now adjourn;
  - c) that the debate be adjourned;
  - d) that the question be now put; or
  - e) that the Leadership Board proceed to the next business.
- (10) If the motion “that the Leadership Board do now adjourn” is carried, any outstanding business shall be printed on the agenda of the next ordinary meeting or of such meeting as shall be specified in the adjournment notice and given priority at the next meeting.
- (11) If the motion “that the debate be adjourned” is carried, the discussion shall be resumed at the next ordinary meeting. When a debate resumes any Member who would have had a right to speak or reply in the adjourned debate shall have the same right in the resumed debate.
- (12) If the motion “that the question be now put” is carried, the motion or amendment under debate shall, subject to the right of reply of the mover of the original motion, be forthwith put.
- (13) When a motion “that the Leadership Board do proceed to the next business” is carried, no further debate shall take place on the matter under discussion.

## **12. Suspension of Standing Orders**

All of these Rules of Procedure, except the mandatory standing orders relating to the right to have an individual vote recorded and no requirement to submit minutes to extraordinary meetings, may be suspended by motion on notice or without notice if at least one half of the whole number of Members are present.

Suspension of these procedure rules can only be for the duration of the meeting and must only be moved in exceptional circumstances where the Chair of the Leadership Board is satisfied that the reasons for the exceptional circumstances can be sufficiently justified. The reasons for the exceptional circumstances must be given by the mover of the motion and the Chair's reasons for considering the exceptional circumstances will be recorded in the minutes of the meeting.

### **13. Rules of Debate**

The following rules shall apply to the conduct of debate at meetings of the Leadership Board:

- (1) Members shall address the Chair. A Member who speaks shall confine his/her remarks strictly to the motion or report under discussion or to a personal explanation or a question of order.
- (2) A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order shall relate only to an alleged breach of a Rule or statutory provision and the Member shall immediately specify the Rule or Statutory provision and the way it has allegedly been broken. No Member may use unbecoming or offensive language.
- (3) A Member may make a personal explanation. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final. When making a point of personal explanation, Members must await the conclusion of the relevant Member's speech.
- (4) The ruling of the Chair on a point of order or the admissibility of a personal explanation shall be final and shall not be open to discussion.
- (5) Where a Notice of Motion has been placed on the agenda, the Chair shall allow the mover the right of reply to the debate before putting the matter to the vote, but otherwise the conduct of the meeting shall be at the discretion of the Chair.
- (6) The Chair shall call the attention of the Leadership Board to continued irrelevance, repetition, unbecoming language or a breach of order by a Member and shall direct such Member, if speaking, to discontinue his/her speech, or, if the Member does not do so, to leave the meeting.

### **14. Voting**

Subject to the provisions of any enactment the Leadership Board will aim to reach a consensus. If exceptionally it is not possible to reach consensus on any matter on which it is necessary to reach a decision, the matter will be put to a vote which will be decided upon by a simple majority of the members of the Leadership Board present and voting at the time the question was put unless it is a matter for which there must be a unanimous decision (see Part 3.1 A).

The method of voting at meetings of the Leadership Board shall be by show of hands. In the event that a vote is tied on any matter it shall be deemed not to have been carried.

If any Member wishes to have his/her name recorded as having voted against any resolution on matters when unanimity is not required, he/she may require the Monitoring Officer to do so.

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

## **15. Minutes**

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. Discussion of the minutes must be limited to their accuracy.

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

The effect of this is that minutes will not be submitted for approval to an extraordinary meeting.

## **16. Code of Conduct and Protocols**

Members shall comply with NECA's Code of Conduct for Members at Part 6.1 of this Constitution and any other Codes or Protocols approved by the Leadership Board.

## **17. Officers' Interests**

If it comes to the knowledge of an officer engaged by NECA, that a contract in which he/she has a pecuniary interest, whether direct or indirect has been, or is proposed to be, entered into by NECA he/she shall as soon as practicable give notice in writing to the Monitoring Officer of the fact that he/she has an interest.

An officer shall be treated as having indirectly a pecuniary interest in a contract if he/she would have been so treated by virtue of Section 95 of the Local Government Act 1972 had he/she been a member of NECA i.e. the other party to the contract is a company or other person or body (other than a public body) of which the officer or his/her spouse/partner is a member or employee or partner.

## **18. Financial Regulations**

The Financial Regulations of NECA are deemed to be incorporated in and have the same force as these Rules.

## **19. Sealing of Documents**

A decision of the Leadership Board (or of a joint committee, committee, sub-committee, person or persons to whom NECA has delegated its powers and duties) shall be sufficient authority for the sealing of any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed.

The Common Seal of NECA shall be kept in a safe place in the custody of the Monitoring Officer and the affixing of the Common Seal shall be attested by the Monitoring Officer or other person nominated by them, unless any enactment otherwise authorises or requires, or the Combined Authority has given requisite authority to some other person.

## **20. Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Combined Authority it will be signed by the Monitoring Officer or other person nominated by them, unless any enactment otherwise authorises or requires, or the Combined Authority has given requisite authority to some other person.

## **21. Committees and Membership**

The Leadership Board shall at its Annual Meeting each year appoint members to such committees as are required to be appointed by or under any statute or this Constitution and may at any time appoint such other joint committees, committees or sub-committees as are necessary to carry out the work of NECA but, subject to any statutory provision, may at any time dissolve a joint committee, committee, sub-committee or alter its membership.

No joint committee, committee or sub-committee member shall continue in office longer than the next Annual Meeting.

All of the Leadership Board Rules of Procedure apply to meetings of the Leadership Board. All of these Rules of Procedure, except rules 11, 12, 13, 19 and 20 will, with any necessary modifications specified in the relevant committee's responsibility for functions, apply to meetings of joint committees, committees and sub-committees of NECA.

Procedure Rule 14 (voting) will apply to meetings of joint committees, committees and sub-committees of NECA with the amendment that in the event of an equality of votes, the Chair will have a second or casting vote.

These Rules of Procedure do not apply to the Audit and Standards Committee and the Overview and Scrutiny Committee or any working groups established by any joint committee, committee or sub-committee of NECA. The Audit and Standards Committee and the Overview and Scrutiny Committee have their own Rules of Procedure set out at Part 4.2 and 4.3 of this Constitution.

## 22. Working groups

Any joint committee, committee or sub-committee of NECA can establish working groups to undertake specific studies/examinations, subject to agreement from the Leadership Board. The agreement of the Leadership Board is not required for the establishment of committees, sub-committees or working groups by the Overview and Scrutiny Committee.

In appointing working groups the joint committee, committee or sub-committees will:

- a) have regard to any approved work programmes to avoid duplication of work or the undertaking of non-priority work and advice from relevant officers on the overall capacity of NECA to support such studies;
- b) determine the remit for each working group which will be bound by the terms of that remit.
- c) determine the membership of the working group to be drawn from the membership of the joint committee, committee or sub-committee with appropriate representation across the Constituent Authorities;
- d) determine whether a non-standard/flexible arrangement for the work required is preferable, for example, a joint arrangement with one or two specified Constituent Authorities.
- e) consider and either approve, amend or reject any reports and recommendations for submission to its parent committee or sub-committee, the Leadership Board, an individual or outside organisation as appropriate.

The Chair of any working groups established to support strategy development and delivery will be the appropriate Thematic Lead or their nominee or agreed Member of NECA.

Working groups may seek the assistance of Members and officers of the Authority and/or outside organisations and individuals to meet the objectives of their agreed remit.

## 23. Co-opted Members

The appointment of co-opted Members to any body, committee, sub-committee or joint committee is a matter reserved to the Leadership Board. A body, committee, sub-committee or joint committee can make recommendations to the Leadership Board on the appointment of co-opted members to the committee itself and/or any of its sub-committees. In making such recommendations to the Leadership Board, the committee will specify the term of office to be applied in each case. The term of office for any appointed co-opted Member can only be extended with the express approval of the Leadership Board. Co-opted Members appointed by the Leadership Board can attend and speak at meetings of the committee or sub-committee to which they are appointed but cannot vote.

## **24. Attendance**

The Monitoring Officer shall record the attendance of each Member at each meeting of the Leadership Board, its joint committees, committees and sub-committees and it shall be the responsibility of each Member to sign such a record.

## **25. Substitutes**

Substitute Members may attend the meetings they have been appointed to as a substitute member to take the place of an ordinary member of the joint committee, committee or sub-committee.

Two types of substitute can be made:

1. Where the ordinary member of the joint committee, committee or sub-committee will be absent for the whole of the meeting.

Once the meeting has commenced and the substitute is present and participating the appointed Member of the relevant committee or sub-committee shall not be entitled to attend the relevant meeting as a member of the committee and this substitution shall apply for the entire meeting including where the meeting is reconvened after adjournment.

2. Where the ordinary member of the committee has a registerable or non- registerable interest in a matter which requires the Member to leave the room whilst the matter is discussed and decided upon (see Part 6.1 - Code of Conduct for Members). In these circumstances the substitute member will only act as a member of the committee for the duration of the discussion on that matter.

When this type of substitution is required, the Monitoring Officer and the Chair of the Leadership Board should be notified prior to the commencement of the meeting. Where notification has not been given the substitution may not be accepted and the substitute would, in these circumstances, not be entitled to participate.

## **26. Failure to attend Meetings**

Subject to the exceptions prescribed by statute, if a Member of NECA fails throughout a period of six consecutive months to attend any meeting of the Leadership Board, joint committee, committee or sub-committee to which they have been appointed, he/she shall, unless the failure to attend was due to a reason approved by the Leadership Board before the end of that period, cease to be a Member of NECA. For the purpose of this provision the period of failure to attend shall date from the first meeting which the Member could have attended as a Member.

## **27. Resignation**

A person appointed to the office of Chair or Vice Chair or Member of NECA may at any time resign his/her office by a notice of resignation in writing signed by him/her and delivered to the Monitoring Officer and such resignation shall take effect upon receipt of that notice by the Monitoring Officer.

## 28. Appointments

A person, so long as he/she is a Member of NECA, and for twelve months after he/she ceases to be a Member of NECA, shall be disqualified from being appointed by the Leadership Board to any paid office.

A Member shall not solicit for any person any appointment under NECA or recommend any person for such appointment or for promotion, but this Rule shall not prevent a Member from giving a written testimonial of a candidate's ability, experience or character for submission to NECA with an application for appointment.

Canvassing of Members directly or indirectly for any appointment under NECA shall disqualify the candidate for that appointment. A statement to this effect shall be included in all recruitment information for appointments.

## 29. Forward Plan

The Forward Plan for NECA will be prepared and published by the Monitoring Officer for the purpose of giving 28 days' notice of decisions.

The purpose of the Forward Plan is, amongst other things, to provide an opportunity for people inside and outside the Authority to see when decisions are going to be taken, who will be taking those decisions and what information and consultation will contribute to these decisions

The Forward Plan will be published on NECA website and will be available for inspection at the offices of each Constituent Authority.

The Forward Plan will contain details of decisions to be taken by the Leadership Board, any relevant committee (or sub committee) of the Leadership Board, or a Chief Officer of NECA. Exempt information need not be included in a Forward Plan and confidential information should not be included. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- a) the matter in respect of which a decision is to be made;
- b) the identity of the decision taker(s)
- c) notice of the intention to exclude the press and public from any meeting, or part of a meeting,
- d) the date on which, or the period within which, the decision will be taken;
- e) the steps any person might take who wishes to make representations to the Leadership Board, committee or sub-committee of the Leadership Board about the matter in respect of which the decision is to be made, and the date by which those steps must be taken;

- f) a list of the documents submitted to the Leadership Board, committee or sub-committee of the Leadership Board for consideration in relation to the matter and an address from which the documents are available; and
- g) a statement to indicate that other documents may be submitted to the decision maker(s) and details of the procedure for requesting copies of them.

### 30. Petitions

Any person or body wishing to present a petition to NECA shall notify the Monitoring Officer in writing and provide him/her with a copy of the petition not less than 14 working days before a meeting of the relevant Committee or a Sub-Committee of NECA. On receipt of such petition the Monitoring Officer shall check that it relates to the work of NECA and, if so, include an appropriate item on the agenda. All petitions addressed to NECA shall be reported to the next meeting of its relevant Committee or a Sub-Committee.

### 31. General Exception

A key decision of the Leadership Board, committee or sub-committee of the Leadership Board, not included in the Forward Plan for the requisite 28 day period can only be taken where:

- a) the Monitoring Officer has notified the Chair (or Vice Chair in their absence) of the Overview and Scrutiny Committee in writing of the matter to be decided; and
- b) at least 5 clear days have elapsed between the agenda for the meeting, which includes the matter, being made available and the date of the meeting.
- c) a notice of general exception will set out the reason why the matter could not be included on the Forward Plan and, a copy of this notice will be published on NECA's website and made available at each of NECA's offices.
- d) the notice of general exception will be sent to the Chair of the Overview and Scrutiny Committee (and the Vice Chair in their absence) and the Chair and Vice Chair of the Board or Committee which will ultimately decide the matter in question.

### 32. Special Urgency

A key decision of the Leadership Board, a committee or a sub-committee of the Leadership Board not included in the Forward Plan can only be taken with less than 5 clear days' notice where:

- a) the Monitoring Officer has notified the Chair (or Vice Chair in their absence) of the Overview and Scrutiny Committee in writing of the matter to be decided and the Chair (or Vice Chair) has given consent to the matter being decided on short notice;
- b) agreement has been obtained from the Chair (or Vice Chair in their absence) of the Leadership Board, that the matter is urgent and cannot be reasonably deferred;



- c) a notice setting out the reasons why the matter is urgent and cannot reasonably be deferred:
  - i. has been made available to the decision makers at (a) and (b) above;
  - ii. is published on NECA's website and made available for inspection at each of NECA offices.
  
- d) the report submitted to the meeting will set out the reason why the matter is urgent and cannot reasonably be deferred and this reason will be recorded in the minutes of the meeting.

### **33. Key Decisions made by Officers acting under Delegated Authority**

An officer making a key decision in accordance with authority delegated to them by the decision making body or this Constitution shall ensure that key decisions appear on the Forward Plan for 28 days or otherwise follow the procedures set out in 31 and 32 above.

### **34. Urgent Decisions using Delegation HPS4**

Where a decision needs to be taken urgently and it is not practical to convene a quorate meeting of the appropriate body (i.e. the Leadership Board, or any other committee, sub-committee or joint committee of the Combined Authority), the Head of Paid Service, in consultation with the Chair (or in their absence a Vice Chair) of the relevant committee, the Chief Finance Officer and the Monitoring Officer has the authority to take an urgent decision (see delegation HPS4 in Part 3.6 B Delegations to Head of Paid Service). In such circumstances, the Head of Paid Service must report that decision to the next meeting of the appropriate decision making body which would have otherwise made that decision.

### **35. Recording Decisions made in cases of General Exception or Special Urgency**

A report of decisions made following the procedure in 31, 32, 33 and is made to the Overview and Scrutiny Committee and the Leadership Board at least once annually. The report will include a summary of the subject matter of the decisions taken.

## **4.2 Audit and Standards Committee Rules of Procedure**

Subject to the provisions of any specific legislation and/or regulations relating to their operation, the Audit and Standards Committee will conduct their proceedings in accordance with the following procedure rules.

### **1. Membership**

The Audit and Standards Committee is made up from four members from the Constituent Authorities and two non-voting co-opted Independent Members.

Any Member from the Constituent Authorities may serve as a Member of the Committee unless they are specifically excluded. Membership of the Committee is determined by the Leadership Board and will be appointed annually, usually at the Annual Meeting. In-year changes to membership can be made, see Part 3.6 Scheme of Delegation of Functions to Proper Officers, Part D Monitoring Officer.

### **2. Co-opted Members**

The appointment of co-opted Members to this committee is a matter reserved to the Leadership Board. The Audit and Standards Committee can make recommendations to the Leadership Board on the appointment of co-opted members to the committee itself and/or any of its sub-committees. In making such recommendations to the Leadership Board, the committee will specify the term of office to be applied in each case. The term of office for any appointed co-opted Member can only be extended with the express approval of the Leadership Board. Co-opted Members appointed by the Leadership Board can attend and speak at meetings of the Committee or sub-committee to which they are appointed but cannot vote.

### **3. Independent Person**

The Independent Person appointed by the Authority will be invited to attend all meetings of the Committee. The Independent Person:

- must be consulted by the Authority before it makes a decision on a matter that has been referred to it for investigation;
- can be consulted by the Authority in respect of a code of conduct complaint at any other stage; and
- can be consulted by a member or co-opted member of the Authority against whom a complaint has been made.

### **4. Meetings**

Meetings for the carrying out of general business shall be held in each year at the times and on the dates fixed at the Leadership Board's Annual Meeting. Notice of meetings will be given to the public.

## 5. Extraordinary Meetings

Extraordinary meetings of the Audit and Standards Committee may be called, where possible following consultation with the Chair and Vice Chair, where it is considered necessary or appropriate (for instance for the purposes of consideration of an Investigation report or the hearing of a complaint), or at the request of the Chair and Vice Chair or any three Members of the Committee.

Other than in exceptional circumstances, the time of commencement of extraordinary meetings should be the same as for ordinary meetings.

The agenda for the extraordinary meeting will include the item of business which led to it being called and any other business, agreed where possible by the Chair, or in their absence Vice Chair, and the Monitoring Officer, which requires a decision before the next ordinary meeting of the Committee. No further item of business may be conducted at an extraordinary meeting of the Audit and Standards Committee other than that specified in the agenda for the meeting unless the Chair, or in their absence the Vice Chair, agree the matter is urgent and requires a decision before the next ordinary meeting of the Committee. Any report submitted to an extraordinary meeting will set out the reason why the matter could not be determined at the next ordinary meeting of the Committee and this reason will be recorded in the minutes of the meeting.

## 6. Summons

The Monitoring Officer and Chief Finance Officer, where possible in consultation with the Chair and Vice Chair, will determine the agenda for meetings of the committee.

At least five clear working days before a meeting, an agenda will be sent to every member of the committee to their usual place of residence (or such other address as has been notified).

The agenda will give the date, time and place of each meeting and specify the order of the business to be transacted, and will be accompanied by such reports as are available.

Urgent reports on items of business may only be added to the agenda if the reasons for urgency can be sufficiently justified and the approval of the Chair of the Committee has been given. The reasons for urgency will be recorded in the minutes of the meeting.

Any matters referred to the committee by either the Leadership Board or any of its committees will be placed on the agenda for the next available meeting of the committee. The committee will, at that meeting, determine the method and timetable for responding to any such referrals.

## 7. Chair

The Chair and the Vice Chair of the Audit and Standards Committee will be the co-opted members. Meetings of the Committee will be chaired by the Chair or in the Chair's absence the Vice Chair. In the absence of both the Chair and Vice Chair, members of the committee present will elect from amongst themselves a Chair for the meeting.

## **8. Quorum**

A meeting of the Committee cannot begin until a quorum is present. The quorum for the Audit and Standards Committee will be two thirds of the membership, excluding the co-opted Members and the Independent Person.

If a quorum is not reached 15 minutes after the time appointed for the start of the meeting, the meeting will be reconvened on another date.

During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately.

Remaining business will be considered at a time and date fixed by the Chair. If the Chair does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9. Substitutes**

Two types of substitute can be made:

1. Where the ordinary member of the Audit and Standards Committee will be absent for the whole of the meeting.

Once the meeting has commenced and the substitute is present and participating the appointed Member of the Audit and Standards Committee shall not be entitled to attend the relevant meeting as a member of the committee and this substitution shall apply for the entire meeting including where the meeting is reconvened after adjournment.

2. Where the ordinary member of the committee has a registerable or non-registerable interest in a matter which requires the Member to leave the room whilst the matter is discussed and decided upon (see Part 6.1 - Code of Conduct for Members). In these circumstances the substitute member will only act as a member of the committee for the duration of the discussion on that matter.

When this type of substitution is required, the Monitoring Officer and the Chair of the Audit and Standards Committee should be notified prior to the commencement of the meeting.

## **10. Duration**

At any meeting which has sat continuously for three and a half hours, the Chair shall have discretion to adjourn the meeting for a short period of time unless the majority of Members present, by vote, determine it shall stand adjourned to another day, the date and time of which shall be determined by the Chair.

## **11. Declaration of Interests in Meetings**

Where a Member attends a meeting of the Audit and Standards Committee they must declare registerable and non-registerable personal interests as defined in the Members'

Code of Conduct either at the start of the meeting, or otherwise as soon as the interest becomes apparent in the course of the meeting.

In addition, where in relation to any meeting a Member has declared a registerable or non-registerable personal interest in a matter, and the criteria contained in paragraph 17 of the Members' Code of Conduct apply, the Member must leave the room for the duration of the discussion on that matter.

## **12. Filming/Reporting at meetings**

Members of the public and media may take photographs, film, audio-record or report via social media the proceedings of Audit and Standards Committee where the meeting is open to the public.

The Chair of the meeting may withdraw consent to film, record or photograph a meeting at any time in the event that it is carried out in a manner that interferes with the proper conduct of the meeting.

## **13. Disturbance**

No member of the public shall interrupt or take part in the proceedings of any meeting. If any member of the public interrupts or takes part in the proceedings at any meeting, the Chair shall warn him/her and if he/she continues the interruption the Chair shall order his/her removal.

## **14. Order of Business**

The Audit and Standards Committee on a motion duly seconded and carried without debate, or on motion by the Chair, which shall not require to be seconded, may vary the order of business as set out on the agenda.

## **15. Voting**

Subject to the provisions of any enactment the Audit and Standards Committee will aim to reach a consensus. If exceptionally it is not possible to reach consensus on any matter on which it is necessary to reach a decision, the matter will be put to a vote which will be decided upon by a simple majority of the members of the committee present and eligible to vote at the time the question was put.

The method of voting shall be by show of hands. As the Chair of the Committee is a non-voting co-opted Member there is no Chair's casting vote. In the event that a vote is tied on any matter it shall be deemed not to have been carried.

Where any member of the committee requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

## **16. Minutes**

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. Discussion of the minutes must be limited to their accuracy.

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

The effect of this is that minutes will not be submitted for approval to an extraordinary meeting.

## **17. Exclusion of the Public**

Members of the public and press may only be excluded either in accordance with the Access to Information paragraph of the Leadership Board Rules of Procedure (Part 4.1, paragraph 8) or when causing a disturbance.

## **18. Attendance by Members and Officers**

The Audit and Standards Committee may request the attendance at a meeting of any Member, any co-opted Member, or any officer to assist the Committee in its work.

Under normal circumstances where it is felt that the attendance of a particular Member or officer would assist the Committee in its work then they will be invited to attend. In such circumstances, the Member or officer concerned should preferably be given at least 5 working days' notice of the date and time of the meeting and the nature of the business to be discussed. In circumstances where it is not possible to give 5 working days' notice, contact should be made at the earliest opportunity with the Member or officer concerned to establish their availability.

Where a Member or officer who has been invited to a meeting is not able to attend, then the Committee will consider whether or not to defer consideration of the matter to enable the Member or officer to be present.

The Monitoring Officer and the Chief Finance Officer (or their nominated representatives) will attend the meetings of the Audit and Standards Committee.

## **19. Specialist Advisers**

The appointment of specialist advisers to any body, committee, sub-committee or joint committee is a matter reserved to the Leadership Board. The Audit and Standards Committee can make requests to the Leadership Board for the appointment of a specialist adviser. In making such requests to the Leadership Board, the Committee will specify the term of the appointment and their reasons for the request.

## **20. Arrangements for dealing with complaints against Members**

The Audit and Standards Committee is part of the Combined Authority's adopted local arrangements relating to how complaints that a Member has failed to follow the Members' Code of Conduct should be dealt with. These are included in Part 6.1 Code of Conduct for Members.

Those arrangements include the opportunity for a complainant to seek a review by the Monitoring Officer, in consultation with the Independent Person and Chair of the Audit and Standards Committee, of the decision of the Monitoring Officer not to refer a complaint for investigation and for a Member who is subject to such a complaint, to seek a review of a decision of the Committee where a breach of the Code has been found. Once a complaint has been dealt with and any review process completed there is no further right of review or appeal available within the Authority.

Where a complaint is made against a Member of NECA or any of its joint committees or sub-committees, the Monitoring Officer and the Monitoring Officer of the Member's appropriate Constituent Authority will determine whether the complaint is to be properly dealt with in accordance with the Combined Authority's local arrangements or the appropriate Constituent Authority's local arrangements.

## **Part 4.3 Overview and Scrutiny Committee Rules of Procedure**

Subject to the provisions of any specific legislation and/or regulations relating to their operation, the Overview and Scrutiny Committee will conduct their proceedings in accordance with the following procedure rules.

References in these arrangements to major and strategic decisions of the Leadership Board taken in accordance with the delegations set out in Part 3 of this Constitution include major and strategic decisions taken by the committees or sub-committees of the Leadership Board in accordance with such delegations.

### **1. Membership**

Any Member of the Constituent Authorities may serve as a member of the Overview and Scrutiny Committee unless they are specifically excluded. Membership of the Committee is determined by the Leadership Board and will be appointed annually, usually at the Annual Meeting.

Any elected member appointed to the Overview and Scrutiny Committee cannot also be appointed to the Leadership Board.

### **2. Co-opted Members**

The appointment of co-opted Members is a matter reserved to the Leadership Board. The Overview and Scrutiny Committee can make recommendations to the Leadership Board on the appointment of co-opted members to the committee itself and/or any of its sub-committees. In making such recommendations to the Leadership Board, the committee will specify the term of office to be applied in each case. The term of office for any appointed co-opted Member can only be extended with the express approval of the Leadership Board. Co-opted Members appointed by the Leadership Board can attend and speak at meetings of the committee or sub-committee to which they are appointed but cannot vote.

### **3. Meetings**

Meetings for the carrying out of general business shall be held in each year at the times and on the dates fixed at the Leadership Board Annual Meeting. Notice of meetings will be given to the public.

### **4. Extraordinary Meetings**

Extraordinary meetings of the Overview and Scrutiny Committee may be called, where possible following consultation with the Chair and Vice Chair, where it is considered necessary or appropriate or at the request of the Chair and Vice Chair or any three Members of the Committee.

Other than in exceptional circumstances, the time of commencement of extraordinary meetings should be the same as for ordinary meetings.



No item of business may be conducted at an extraordinary meeting of the Overview and Scrutiny Committee other than that specified in the resolution, request or requisition which led to it being called.

## **5. Summons**

The Monitoring Officer, where possible in consultation with the Chair and Vice Chair, will determine the agenda for meetings of the committee.

At least five clear working days before a meeting, an agenda will be sent to every member of the committee to their usual place of residence (or such other address as has been notified).

The agenda will give the date, time and place of each meeting and specify the order of the business to be transacted, and will be accompanied by such reports as are available.

Urgent reports on items of business may only be added to the agenda if the reasons for urgency can be sufficiently justified and the approval of the Chair of the Committee has been given. The reasons for urgency will be recorded in the minutes of the meeting.

Any matters referred to the committee by either Leadership Board or any of its committees will be placed on the agenda for the next available meeting of the committee. The committee will, at that meeting, determine the method and timetable for responding to any such referrals.

## **6. Chair**

Two independent members will fulfil the roles of Chair and Vice Chair of the Overview and Scrutiny Committee and will be appointed by the Leadership Board.

## **7. Quorum**

A meeting of the Committee cannot begin until a quorum is present. The quorum for the Overview and Scrutiny Committee is two thirds of the members, including the Independent Chair or Vice Chair.

If a quorum is not reached 15 minutes after the time appointed for the start of the meeting, the meeting will be reconvened on another date.

During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately.

Remaining business will be considered at a time and date fixed by the Chair. If the Chair does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **8. Duration**

At any meeting which has sat continuously for three and a half hours, the Chair shall have discretion to adjourn the meeting for a short period of time unless the majority of Members present, by vote, determine it shall stand adjourned to another day, the date and time of which shall be determined by the Chair.

## **9. Declaration of Interests in Meetings**

Where a Member attends a meeting of the Overview and Scrutiny Committee they must declare registerable and non-registerable personal interests as defined in the Members' Code of Conduct either at the start of the meeting, or otherwise as soon as the interest becomes apparent in the course of the meeting.

In addition, where in relation to any meeting a Member has declared a registerable or non-registerable personal interest in a matter, and the criteria contained in paragraph 17 of the Members' Code of Conduct apply, the Member must leave the room for the duration of the discussion on that matter.

## **10. Disturbance**

No member of the public shall interrupt or take part in the proceedings of any meeting. If any member of the public interrupts or takes part in the proceedings at any meeting, the Chair shall warn him/her and if he/she continues the interruption the Chair shall order his/her removal.

## **11. Order of Business**

The Overview and Scrutiny Committee on a motion duly seconded and carried without debate, or on motion by the Chair, which shall not require to be seconded, may vary the order of business as set out on the agenda.

## **12. Voting**

Subject to the provisions of any enactment the Overview and Scrutiny Committee will aim to reach a consensus. If exceptionally it is not possible to reach consensus on any matter on which it is necessary to reach a decision, the matter will be put to a vote which will be decided upon by a simple majority of the members of the committee present and voting at the time the question was put.

Each member of the Overview and Scrutiny Committee appointed from the Constituent Authorities is to have one vote. In the event that a vote is tied on any matter it shall be deemed not to have been carried. No member has a casting vote.

Where any member of the committee requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person

with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

### **13. Minutes**

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. Discussion of the minutes must be limited to their accuracy.

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

The effect of this is that minutes will not be submitted for approval to an extraordinary meeting.

### **14. Exclusion of Public**

Members of the public and press may only be excluded either in accordance with the Access to Information paragraph of the Leadership Board Rules of Procedure (Part 4.1, paragraph 8) or when causing a disturbance.

### **15. Attendance by Members and officers**

The Overview and Scrutiny Committee may invite to a meeting any Member, co-opted Member, and others to assist the Committee in its work.

Under normal circumstances where it is felt that the attendance of a particular Member, officer, officer of Nexus or other delivery bodies or stakeholders and members of the public, would assist the Committee in its work then they will be invited to attend or submit written information. In such circumstances, the person/organisation concerned should be given at least 5 working days' notice of the date and time of the meeting and the nature of the business to be discussed. In circumstances where it is not possible to give 5 working days' notice, contact should be made at the earliest opportunity with the Member or officer concerned to establish their availability.

Where a Member of the Leadership Board or officer who has been invited to a meeting is not able to attend, then the Committee will consider whether or not to defer consideration of the matter to enable the Member or officer to be present.

### **16. Specialist Advisers**

The appointment of specialist advisers to any body, committee, sub-committee or joint committee is a matter reserved to the Leadership Board. The Overview and Scrutiny Committee can make requests to the Leadership Board for the appointment of a specialist adviser. In making such requests to the Leadership Board, the Committee will specify the term of the appointment and their reasons for the request.

## **17. Reports of recommendations from Overview and Scrutiny Committee**

Where Overview and Scrutiny Committee makes a report or recommendation the committee may:

- a) publish the reports or recommendations;
- b) by notice require in writing the Leadership Board to consider the report or recommendations and respond to them indicating what (if any) action the Leadership Board proposes to take within two months of receipt of the report or recommendations;
- c) and if the report was published, publish the response.

## **18. Involvement in the work of the Committee by the public, etc.**

The Authority is committed to the involvement of the public and others in the work of the Overview and Scrutiny Committee.

Where members of the public and/or others have had an active role in the work of the Overview and Scrutiny Committee such involvement will be properly acknowledged. In addition, where this involvement has contributed to a particular study or examination, then the individuals and/or organisations concerned will be informed of any resulting conclusions and/or recommendations.

## **19. Work Programme**

At its first meeting of the year, the Overview and Scrutiny Committee will:

- a) determine the areas of review and scrutiny that they wish to pursue during the ensuing 12 months.
- b) agree to establish Scrutiny Groups from amongst their number in order to carry out agreed areas of review and scrutiny.

The Overview and Scrutiny Committee and the Scrutiny Officer will keep the work programme under review.

The Constituent Authorities will work together to maximise the exchange of information and views, to minimise bureaucracy and make best use of the time of members and officers of other bodies or agencies.

Members of the Overview and Scrutiny Committee will, when considering reviews, determine whether the issue is more appropriately dealt with by one of the Constituent Authorities or elsewhere and will not duplicate the work of existing bodies or agencies.

Any member of the Constituent Authorities shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the Committee

to be included in the work programme for discussion at a future meeting of the Committee.

The Scrutiny Committee shall respond, as soon as their work programme permits, to requests from the members of the Constituent Authorities and if it considers it appropriate the Leadership Board, to review particular areas of NECA activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Leadership Board.

Members of the Overview and Scrutiny Committee will use the following framework when considering referrals to the Overview and Scrutiny Committee:-

1. The Scrutiny Committee may determine that the item is not relevant to the functions of the Scrutiny Committee or duplicates the work of another body or agency. In these circumstances the Committee can resolve to take no action or that the issue is more appropriately dealt with by one of the Constituent Authorities, or may refer the item elsewhere e.g. to another NECA committee.
2. That the issue is linked to an existing work programme item then it should be discussed as part of that item.
3. If the issue is a new item of business within the remit of the Committee, the Scrutiny Committee may:
  - a) Request a response in writing (with copies to all Members of the Scrutiny Committee) or
  - b) Request a presentation to a future Scrutiny Committee, or
  - c) Request a report to a future Scrutiny Committee or
  - d) Decide that the issue raised does not merit any response beyond noting the matter or
  - e) Decide to express a view or make a recommendation, by resolving accordingly, if the Committee considers it has sufficient information to make a fully informed decision.

## **20. Scrutiny Groups**

In appointing Scrutiny Groups the Overview and Scrutiny Committee will:

- a) have regard to the approved work programme and advice from relevant officers on the overall capacity of the Authority to support such studies;
- b) determine the remit for each scrutiny group who will be bound by the terms of that remit;
- c) determine the membership of the scrutiny group to be drawn from the membership of the committee or sub-committee;
- d) consider and either approve, amend or reject any reports and recommendations made by a scrutiny group for submission to the Leadership Board, an individual or outside organisation as appropriate.

The arrangements for the attendance of Members of the Leadership Board and/or officers of the Authority applicable for meetings of the Overview and Scrutiny Committee will also apply to scrutiny groups.

Scrutiny groups may seek the assistance of Members and officers of the Authority and/or outside organisations and individuals.

## **21. Linking Sub-regional Scrutiny with Local Scrutiny**

A Scrutiny Officer must be designated in accordance with the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017. The role of the Scrutiny Officer is to promote the activities and purpose of the Overview and Scrutiny Committee, provide support and guidance to the Overview and Scrutiny Committee and provide support and guidance to the members of the Leadership Board, committees and sub-committees in relation to the functions of the Overview and Scrutiny Committee.

The scrutiny officer of each Constituent Authority will ensure that the work programmes and minutes relating to the work carried out by the Overview and Scrutiny Committee in scrutinising the Leadership Board and its relevant committees are circulated appropriately within their own Constituent Authorities scrutiny arrangements.

## **22. Call-in**

The Overview and Scrutiny Committee has the power to call-in decisions made but not yet implemented. The Committee will delegate this authority to a call-in subcommittee comprising a panel of 4 Members drawn from the Scrutiny Committee (or substitutes) with a representative Member from each of the Constituent Authorities and in addition the independent Chair (or Vice-Chair). The purpose of call-in is to consider whether to recommend that a decision be reviewed by the decision taker. Call-in should only be used in exceptional circumstances. These are where members of the Committee have evidence which suggests that the decision was not taken in accordance with the principles of decision making. It cannot be used in respect of day-to-day management and operational decisions and should be used in accordance with the committee's decision making protocol in relation to key decisions.

- (a) When a decision is taken by the Leadership Board, or a relevant committee of the Leadership Board, or an officer with delegated authority, the decision shall be published and shall be available normally within three working days of being made. Members of the Committee will be sent copies of the records of all such decisions by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the Committee directs that it should be called in.
- (c) During that period, the Monitoring Officer shall call-in a decision for scrutiny by the Committee if so requested by any four members of the Committee, and

shall then notify the decision-taker of the call-in. The Monitoring Officer shall then call a meeting of the call-in sub-committee on such date as he/she may determine, where possible after consultation with the Chair of the Committee, and in any case within a period not exceeding 14 days of the decision to call-in. If the meeting cannot take place within 14 days, the call-in procedure fails and the decision can be implemented.

- (d) If, having considered the decision, the Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. If referred to the decision maker they shall hold a meeting to reconsider the decision no later than 10 days after the recommendation from the Committee is received.
- (e) If following a direction to call-in the decision, the Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the expiry of 14 days.
- (f) The decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.

#### **Overview and Scrutiny Committee Protocol**

- (g) The Overview and Scrutiny Committee has adopted a protocol about the definition of key and non-key decisions and how it anticipates to discharge its responsibilities. The Monitoring Officer and the Scrutiny Officer will ensure that all staff are aware of the procedures set out in this protocol.

## Part 4.4 Budget and Policy Framework Rules of Procedure

### 1. Introduction

The Budget and the Policy Framework is the collective name given to the budget and a number of the major plans and strategies of NECA that must be considered by Leadership Board before they are finally approved.

This part of the Constitution sets out how the Leadership Board will decide on which plans and strategies are in the Policy Framework. It also sets out how it will make decisions on the content of the budget and those plans and strategies contained in the Framework where such plans and strategies are brought forward.

Once a budget or policy is in place it is the responsibility of the Leadership Board to implement.

### 2. Content of the Budget and Policy Framework

The Budget and Policy Framework will comprise:

#### a) The Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingencies, earmarked and unearmarked reserves. This includes the transport levy and decisions relating to the control of the Combined Authority's borrowing requirement, the control of its capital expenditure and the setting of virement limits (taking into account the decisions made by the Joint Transport Committee when discharging functions on behalf of the Combined Authority).

The budget also includes the Treasury Management Strategy. Treasury Management is the management of the Authority's cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities and the pursuit of optimum performance consistent with those risks.

The Treasury Management Strategy aims to protect the Authority from market-related risks by monitoring interest rates, economic indicators and UK and overseas government finances. The prime objective of the Authority's investment strategy is to maintain capital security whilst ensuring that there is the necessary liquidity to carry out its business.

#### b) The following plans and strategies:

- The Growth Plan (which includes the Strategic Economic Plan and the related investment strategy)
- The Regional Transport Plan

The Leadership Board will review the composition of the Policy Framework annually as part of the review of the Constitution and the relevant provisions will be amended to take account of the outcome of any review. NECA will also publish a five-year



timetable for consideration of those plans and strategies included in the Framework.

### **3. The Budget**

The process described below aims to ensure that appropriate and effective consultation takes place with all Members and other stakeholders on the content of the Budget.

#### **a) Initial proposals**

As host Combined Authority for transport, NECA will produce initial proposals in relation to the transport budget and the budget of NECA (including the relevant element of the transport budget). At least 2 months before the calculations on the transport levies need to be finalised by the Joint Transport Committee, NECA, as accountable body, will produce initial outline proposals. These initial proposals will be accompanied by:

- (i) a summary of information that has been taken into account in producing the initial proposals (including specific reference to consideration of any reviews/studies previously carried out by the relevant Overview and Scrutiny Committees);
- (ii) detailed information on how it is intended to consult with the Constituent Authorities and Combined Authorities, stakeholders, residents and others;
- (iii) a clearly stated timetable for the consultation and the preparation of final proposals for consideration by the JTC Overview and Scrutiny Committee and the Joint Transport Committee.
- (iv) proposals on the extent of virement permitted within the Budget as part of an annual review of the Combined Authority's Financial Regulations and any protocols agreed between the Combined Authorities.

The initial proposals and accompanying information will then be referred to the JTC Overview and Scrutiny Committee. The JTC Overview and Scrutiny Committee will at this stage examine the consultation proposals and timetable and make recommendations on these, where it is considered appropriate, to the Joint Transport Committee. It will be the responsibility of each of the Combined Authority's to examine proposals in accordance with the above timetable.

#### **b) Initial consideration by the Leadership Board and the Joint Transport Committee**

Proposals from the Joint Transport Committee in relation to levies and the distribution of those levies to the Constituent Authorities and Combined Authorities will be considered by the Leadership Board. The Leadership Board will consider the funding necessary to discharge the functions of NECA and make proposals for the funding of NECA taking into account the JTC's proposals or decisions in relation to the levies and the wider transport budget.

**c) Finalising proposals**

The Leadership Board will consider the decisions and any recommendations made by the Joint Transport Committee and JTC Overview and Scrutiny Committee and, where it is considered appropriate, make representations to the Joint Transport Committee to amend the consultation process and/or timetable accordingly.

The Leadership Board will refine its proposals in accordance with the recommendations and decisions made by the Joint Transport Committee and engage with the Overview and Scrutiny Committee.

Once the consultation process has been completed, details of the finalised proposals will be referred to the Overview and Scrutiny Committee together with the relevant background information on which the proposals have been based. It is the responsibility of the Chair of the Leadership Board and relevant officers to ensure that the Overview and Scrutiny Committee has sufficient background information to enable it to evaluate the proposals against that background information.

The proposals will then be referred back to the Leadership Board, together with any recommendations and/or observations from the Overview and Scrutiny Committee.

**d) Consideration of final proposals**

The final proposals (including consideration of the final proposals and decisions of the Joint Transport Committee) will then be considered by the Leadership Board, which may or may not include the recommendations and/or observations from the Overview and Scrutiny Committee.

The Leadership Board must approve the final proposals in relation to NECA's budget unanimously. The Joint Transport Committee must approve the final proposals in relation to the North East Transport Budget unanimously.

**e) After the Budget has been agreed**

A notice of the decision will be prepared by the Chief Finance Officer and given to each Constituent Authority.

**4. Plans and Strategies (The Policy Framework)**

The process described below aims to ensure that appropriate and effective consultation takes place with all Members and other stakeholders on the content of any of the major plans or strategies within the Policy Framework.

**a) Initial proposals**

At least 2 months before any plan or strategy needs to be finalised, the Leadership Board will produce initial proposals. These initial proposals will be accompanied by:

- (i) a summary of information that has been taken into account in producing the initial proposals and any consultation undertaken (including specific reference to consideration of any reviews/studies previously carried out by the Overview and Scrutiny Committee);
- (ii) detailed information on how it is intended to consult with Members and others;
- (iii) a clearly stated timetable for the consultation and the preparation of final proposals for consideration by the Overview and Scrutiny Committee and the Leadership Board ; and
- (iv) proposals on the degree of changes to the plan or strategy that can be approved by the Leadership Board during the life span of the plan or strategy.

The initial proposals and accompanying information will be referred to the Overview and Scrutiny Committee. The Overview and Scrutiny Committee will examine the consultation proposals and timetable and make recommendations on these, where it is considered appropriate, to the Chair of the Leadership Board.

#### **b) Finalising proposals**

A second draft of the policy, taking into consideration comments received through the consultation process on the initial proposals will be approved by the Leadership Board and referred again to the Overview and Scrutiny Committee together with the relevant background information on which the final proposals have been based. Any recommendations and/or observations from the Overview and Scrutiny Committee will be considered by the Leadership Board.

#### **c) Submission of final proposals to the Leadership Board**

The final proposals will then be considered by the Leadership Board, which may or may not include the recommendations and/or observations from the Overview and Scrutiny Committee.

The Leadership Board must approve the final proposals unanimously.

### **5. Decisions that contravene the Budget or the plans or strategies in the Policy Framework**

NECA's Financial Regulations contain provisions allowing virement. Subject to those provisions, the Leadership Board, committees of the Leadership Board and/or any officers or joint committees discharging functions are only authorised to take decisions in line with the approved Budget and/or the approved plans or strategies in the Policy Framework. Only the Leadership Board can take a decision that wholly or in part does not accord with the approved Budget or plans or strategies in the Policy Framework.

Decision makers must take the advice of the Monitoring Officer and/or Chief Finance Officer where it appears to them that a decision they wish to make would be contrary

to the approved plans or strategies in the Policy Framework or not wholly in accordance with the approved Budget. Where advice is given that the decision would be contrary to the approved plans or strategies in the Policy Framework or not wholly in accordance with the Budget then that decision must be referred to the Leadership Board.

Decisions of the Leadership Board, its committees, sub-committees or a joint committee or officers, must be in line with the policies set by the Leadership Board. These decision makers may only make changes to any of the policies in the Policy Framework in the following circumstances:

- a) where NECA has a budgetary constraint and changes are made to the policies in the Policy Framework to meet that constraint. This may involve the closure or discontinuance of a service;
- b) changes necessary to ensure compliance with the law, ministerial direction or government guidance; or
- c) changes to a policy which would normally be agreed annually or periodically by the Leadership Board following consultation, but where the existing policy document is silent on the matter under consideration.

## Part 4.5 Officer Employment Rules of Procedure

The Officer Employment Rules of Procedure set out the Authority's governance arrangements for the recruitment and dismissal of, and the taking of disciplinary action against, officers.<sup>8</sup>

This section should be read in conjunction with the Scheme of Delegation of Functions to Chief Officers (Part 3.6).

The Authority's Chief Officers and Deputy Chief Officers are, in accordance with the Local Government and Housing Act 1989 defined as follows:

- a) a statutory chief officer (e.g. the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer);
- b) a non-statutory chief officer (e.g. an officer who reports directly to the Head of Paid Service; and
- c) a deputy chief officer (e.g. an officer who reports directly to a Chief Officer).

### 1. General

The functions of appointment and dismissal of, and taking disciplinary action against, officers below the level of Deputy Chief Officer must be discharged by the Head of Paid Service, on behalf of the Authority, or by an officer nominated by them.

The functions of appointment and dismissal of, and taking disciplinary action against, Chief Officers and Deputy Chief Officers must be discharged by the Leadership Board.

### 2. Recruitment and appointment

The Authority will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Member or officer; or of the partner of such persons.

No candidate so related to a Member or an officer will be appointed without the authority of the Head of Paid Service or an officer nominated by them.

The Authority will disqualify any applicant who directly or indirectly seeks the support of any Member for any appointment with the Authority. The content of this paragraph will be included in any recruitment information.

No Member will seek support for any person for any appointment with the Authority.

Nothing in the above paragraphs precludes a Member from giving a written reference for a candidate for submission with an application for employment.

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<sup>8</sup> Upon publication the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 do not apply to Combined Authorities.

### **3. Appointments**

Where the Leadership Board determines to appoint a Chief Officer or Deputy Chief Officer the Leadership Board will draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed.

If it is not proposed that the appointment be made exclusively from among existing officers of the Constituent Authorities, the Leadership Board will:

- a) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- b) make arrangements for a copy of the written statement mentioned above to be sent to any person on request.

The appointment of any other officer is a matter for the Head of Paid Service.

### **4. Disciplinary Action**

The Head of Paid Service, the Monitoring Officer or Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.

No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by an independent person designated and acting in accordance with Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001.

Members will not be involved in the disciplinary action against any officer below Deputy Chief Officer level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Authority's disciplinary, capability and related procedures.

### **5. Dismissal**

Members will not be involved in the dismissal of any officer below Deputy Chief Officer level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Authority's disciplinary, capability and related procedures.

## Part 5 Financial Regulations

### Introduction

#### 1. Definitions

In these Regulations:

The “Direct Services” of the Authority include those services provided directly to it by the lead authorities responsible for providing the services.

“Designated Officers” are those officers listed below, together with any other officers or consultants that may be approved by the Authority for the purpose of these regulations:

Head of Paid Service

Chief Finance Officer

Monitoring Officer

Chief Executive of any Constituent Authority which supports a Thematic Lead (see paragraph 5 of the Constitution’s Introduction)

Managing Director for Transport Operations

Engineer to the Tunnels

Any duty or power devolving upon a Designated Officer may (in his or her absence) be exercised by a nominated deputy.

2. NEXUS is a separate accountable public corporation with its own financial regulations to be adhered to by its Directors and officers and which will apply to its Leadership Board approved revenue and capital spending plans. In this regard, Nexus’ general remit is to “procure or provide public transport services and facilities, plan for future service development and promote the use and convenience of public transport.”
3. Financial Regulations provide the framework for the financial administration of NECA with a view to ensuring that its financial affairs are conducted in a sound and proper manner, constitute value for money and minimise the risk of legal challenge. Financial Regulations are not intended to constitute a set of detailed rules to respond to every contingency. The Regulations allow for variation in detailed controls by the Designated Officers where justified by local circumstances.
  - a) Financial Regulation 1 defines responsibility for financial control.
  - b) Financial Regulations 2, 3, and 4 lay down the tasks required of the Authority, joint committee, committee, sub-committee or designated officer for the fundamental financial processes of:
    - i) forward planning and budgetary strategy;
    - ii) incurring and controlling revenue spending and income;
    - iii) incurring and controlling capital spending and income.
  - c) Financial Regulation 5 covers the requirements for Risk Management.

- d) Financial Regulations 6 and 7 cover the standards required for:
    - i) accounting;
    - ii) internal audit.
  - e) Financial Regulation 8 governs procedures for obtaining goods, materials, works and services.
  - f) Financial Regulation 9 defines the powers and responsibilities governing arrangements with Nexus.
  - g) Financial Regulation 10 regulates the 'day to day' financial systems of NECA. It requires designated officers to ensure that prescribed controls are present, but allows them, except where explicitly stated otherwise, to determine the detail of the controls in order to meet service circumstances.
4. All financial decisions and decisions with financial implications must have regard to proper financial control. Any doubt as to the appropriateness of a financial proposal or correctness of a financial action must be clarified in advance of the decision or action.
  5. Failure by officers to observe Financial Regulations and the codes and guidance issued under them may result in action under the Authority's disciplinary procedures.
  6. Failure by Members to observe Financial Regulations may amount to a breach of the Code of Conduct for Members.
  7. Amendments to Financial Regulations require the approval of the Leadership Board following a report from the Chief Finance Officer. The Leadership Board may amend all other Procedures, Policies, Codes and Checklists referred to in these Financial Regulations. The Chief Finance Officer will review as often as he/she considers appropriate supporting advice and guidance to the Financial Regulations and report any recommended changes to the Leadership Board for approval.
  8. If any financial issues arise which result in any uncertainty or ambiguity as to the correct procedure to follow under these regulations, then the Chief Finance Officer shall have delegated powers to give a valid direction as to the appropriate procedure to follow.



## **1. Responsibilities**

### **1.1 Responsibilities to the Authority**

All Members, Designated Officers and Officers of the Combined Authority are responsible for ensuring that they use the resources and assets entrusted to them in a responsible and lawful manner. They should strive to achieve value for money and avoid legal challenge to the Authority. These responsibilities apply equally to Members and Designated Officers and officers when representing the Combined Authority on outside bodies. Members must also comply with the Code of Conduct for Members.

### **1.2 Personal Responsibilities**

Any person charged with the use or care of the Authority's resources and assets should understand the Authority's requirements under these Financial Regulations. If anyone is in any doubt as to their obligations, then they should seek advice. Unresolved questions of interpretation should be referred to the person providing internal audit services to the Authority.

All Officers (including Officers of lead authorities providing services to the Authority) must report to their manager or supervisor any illegality, impropriety, breach of procedure or serious deficiency in the provision of service. Officers shall be able to do this without fear of recrimination providing they act in good faith and in such circumstances managers must record and investigate such reports and take action where appropriate. Compliance with the Authority's Policy Statement on Fraud and Corruption and the Code of Conduct for Officers is mandatory.

Note: The Authority's Policy for confidential reporting of concerns ("whistle blowing") exists to:

- Make Officers feel confident to raise concerns and to question and act upon concerns about practice;
- Give Officers avenues to raise concerns and receive feedback on any action taken;
- Guarantee that an Officer will receive a response to his or her concerns raised and that he or she is aware of the process to follow if not satisfied;
- Reassure an Officer that he or she will be protected from possible reprisals or victimisation.

### **1.3 The Leadership Board**

The Leadership Board is responsible for:

- The adoption and revision of these Financial Regulations;
- The determination of the policy framework and annual revenue budget and capital programme;
- Providing the Chief Finance Officer and Designated Officers with sufficient staff, accommodation and other resources to carry out their duties.

## **1.4 Overview and Scrutiny Committee**

The Scrutiny Committee has a monitoring and scrutiny role to help ensure that the Authority's corporate budgets and financial management systems are managed efficiently and are ensuring value for money.

## **1.5 Audit and Standards Committee**

The Audit and Standards Committee is responsible for overseeing issues relating to financial probity and the adequacy of the Authority's controls.

## **1.6 Chief Finance Officer**

1.6.1 NECA shall appoint an officer, the Chief Finance Officer, who shall, for the purposes of Section 73 of the Local Government Act 1985, be responsible for ensuring the proper administration of the Combined Authority's financial affairs.

1.6.2 The Chief Finance Officer shall issue, and keep under continuous review, such instructions, advice or procedures relating to financial matters as he or she considers necessary to secure the proper administration of the Combined Authority's financial affairs.

1.6.3 The Chief Finance Officer is responsible for reporting, where appropriate, breaches of Financial Regulations to the Leadership Board.

1.6.4 The Chief Finance Officer has the duty to report to the Leadership Board and external auditor where it appears that NECA or an officer has made or is about to make a decision that would involve:

- Unlawful expenditure;
- An unlawful action likely to cause a loss or deficiency;
- An unlawful item of account;
- Proposed expenditure that is in excess of available resources

(Section 114, Local Government Finance Act 1988.).

1.6.5 The Chief Finance Officer has responsibility for ensuring compliance with the requirements of the Accounts and Audit Regulations 2011 relating to accounting records, control systems and audit.

## **1.7 Designated Officers and Director of Finance and Resources, Nexus**

Designated Officers and the Director of Finance and Resources, Nexus are responsible for ensuring that appropriate staff under their control are aware of the existence of the Authority's Financial Regulations and other regulatory documents and that they are observed throughout all areas under their control and shall:

- Provide the Chief Finance Officer with such information and explanations as the Chief Finance Officer feels is necessary to meet his or her obligations under Financial Regulations;

- Ensure that the Chief Finance Officer has sufficient opportunity to comment on all proposals with unbudgeted financial implications, before any commitments are incurred;
- Ensure that Authority members are advised of the financial implications of all significant proposals and that the financial implications have been agreed by the Chief Finance Officer;
- Inform immediately the Chief Finance Officer of failures of financial control resulting in additional expenditure or liability, or loss of income or assets;
- Inform the Chief Finance Officer where amendment to Financial Regulations is considered necessary; and
- Be responsible for ensuring the legality of all actions.

Note: It is the Monitoring Officer's duty to report to the Authority in respect of any proposed action, decision or omission that is contrary to law, or constitutes maladministration or injustice where the Ombudsman has conducted an investigation.

## **1.8 Exceptions to Financial Regulations**

1.8.1 Exceptions to these Financial Regulations shall be made only:

- in cases of urgency or where it is in the interests of the Combined Authority to do so; and
- with the prior written approval of the Chief Finance Officer.

1.8.2 The Chief Finance Officer shall keep a record of all such exceptions and submit an annual report to the Authority summarising the exceptions.

## **1.9 Arrangements for the discharge of responsibility**

1.9.1 Designated Officers and their staff are required to carry out their tasks in accordance with these Financial Regulations. Designated Officers may arrange for any of their staff to carry out tasks for which they have responsibility as set down by these Financial Regulations provided that the terms of those delegated arrangement are clearly defined and documented. A record of all such arrangements will be prepared by each Designated Officer and submitted to the Chief Finance Officer on an annual basis.

1.9.2 Notwithstanding such arrangements, the person making the arrangements remains responsible for compliance with these Financial Regulations.

## **2. Forward Planning and Budget Strategy**

The Leadership Board decides on the annual budget and the levy on the constituent local authorities.

2.1 Designated Officers and the Director of Finance and Resources, Nexus shall provide information to the Chief Finance Officer to enable him/her to produce and submit to the Authority annually a medium term financial forecast and a medium term capital forecast.

- 2.2 The Chief Finance Officer shall annually advise the Leadership Board on:
- Financial planning and budget strategy matters.
  - Procedures, timetables and estimated resources for planning revenue and capital spending.
  - The annual revenue and capital budget; transport levies and the contribution from councils to cover costs of non-transport services.
- 2.3 Designated Officers and the Director of Finance and Resources, Nexus in consultation with the Chief Finance Officer shall prepare revenue and capital estimates in accordance with such guidelines as set out by the Authority. In doing so, Designated officers and the Director of Finance and Resources, Nexus shall ensure that:
- The estimated expenditure and income, or the cost of any proposal submitted by them, are as accurate as possible and provide provision for all costs involved.
  - The revenue and capital estimates are consistent with Authority policy.
  - The revenue implications of capital schemes are fully included in revenue estimates.
- 2.4 The Leadership Board shall review the estimates together with such summaries, statements and reports as are considered desirable and shall recommend:
- The level of grant to be paid to Nexus for Concessionary Travel and Service Support in the next financial year as determined by the Joint Transport Committee.
  - The size of the levy made by the Joint Transport Committee on the councils for the local government areas formerly constituting the county of Tyne and Wear, The County Council of Durham and Northumberland County Council and for the next financial year.
  - The prudential indicators and the prudential borrowing for the next financial year.

### **3. Incurring and Controlling Revenue Spending and Income**

The Authority monitors financial performance during the financial year and considers any significant developments affecting its financial position.

- 3.1 The Chief Finance Officer and the Director of Finance and Resources, Nexus jointly shall advise the Leadership Board, on a quarterly basis, on:
- Progress against the Leadership Board approved budget;
  - Significant developments affecting the financial position of the Combined Authority.
  - Significant developments affecting the financial position of Nexus.
- 3.2 The Chief Finance Officer shall:
- Provide guidance on and co-ordinate the budget monitoring process.
  - Prescribe the form, basis, supporting information and timetable for the preparation of final accounts.

- Within delegated limits approve supplementary estimates and transfers of estimates.

### 3.3 Each Designated Officer shall:

#### 3.3.1 Authorise revenue spending and collect income within the estimates, targets and/or limits approved by the Leadership Board provided that:

- The expenditure is lawful.
- Financial Regulations have been complied with;
- Expenditure is within approved revenue budget or capital programme provision.
- Expenditure is in respect of Authority policy.

#### 3.3.2 Monitor progress on revenue spending and the collection of income and promptly provide the Chief Finance Officer with such information as requested.

#### 3.3.3 Review fees and charges annually and implement changes in accordance with officer delegations or alternatively report them for approval to the Leadership Board.

#### 3.3.4 Seek, in consultation with the Chief Finance Officer, the approval of the Authority to budgetary changes that would have a significant impact on the nature or level of service provided.

#### 3.3.5 Ensure that transfers between budgets (virement) fulfil the following requirements:

- Transfers apply only to the transfer of funds within the delegated budget of the Designated officer.
- The proposal is consistent with Authority policy.
- Any virement over £10,000 is a significant decision and is therefore approved by the Chief Finance Officer.
- The total net delegated budget is still within the delegated cost limit.

#### 3.4 Transfers from reserves to revenue budgets, other than those covered by the provisions of 3.3.5 above, require the prior written approval of the Chief Finance Officer.

#### 3.5 Designated Officers shall, in an emergency (being a situation which demands action of a nature that could not have been anticipated and for which there is no budget line), and with the prior written approval of both the Chief Finance Officer and the Chair of the Leadership Board, have authority to incur unbudgeted expenditure.

## 4. **Incurring and Controlling Capital Spending and Income**

The Combined Authority oversees the capital and leasing programme of the Tunnels and Nexus and approves the award of contracts for Tunnels in accordance with the Procedure for the Commitment of Capital Expenditure (FPN 11).

- 4.1 The Chief Finance Officer and the Director of Finance and Resources, Nexus jointly shall advise the Leadership Board quarterly on:
- Progress on implementation of the Leadership Board approved capital and leasing programmes.
  - Additions and amendments to the Leadership Board approved capital and leasing programme.
  - The procedure for the commitment of the Leadership Board approved capital expenditure.
- 4.2 The Chief Finance Officer and the Director of Finance and Resources, Nexus shall as appropriate:
- Provide guidance and co-ordinate capital monitoring procedures.
  - Certify capital proposals as required by the Procedure for the Commitment of Capital Expenditure and within Nexus' own set of financial regulations.
- 4.3 Designated Officers shall:
- Authorise capital spending in accordance with the Procedure for the Commitment of Capital Expenditure (FPN11).
  - Monitor progress on implementation of the capital and leasing programme and provide the Chief Finance Officer with such information as requested.
  - Only commit the Authority to match-funding arrangements for which capital programme approval has been obtained.
  - Undertake the disposal of land and buildings in accordance with the any scheme of officer delegation approved by the Leadership Board or otherwise with express approval of the Leadership Board.

#### 4.4 Capital Expenditure – Definition

For the purposes of this regulation, capital expenditure is deemed to include the procurement, improvement or enhancement for the Authority's purposes of land, buildings, vehicles and equipment and the provision of grants to external organisations to enable the purchase of land, buildings, vehicles and equipment, regardless of how financed. Expenditure below the de-minimis sum determined by the Chief Finance Officer is not capital expenditure. If there is doubt whether expenditure is capital, the decision of the Chief Finance Officer is final.

## 5. Risk management

The importance of risk management to the wellbeing of the Combined Authority is outlined in its Risk Management Policy and Strategy Framework.

Designated Officers are responsible for ensuring that risk management is an integral part of their management processes and activities within their respective areas of responsibility.

- 5.1 Designated Officers will assign clear roles and responsibilities for managing risk.

- 5.2 Designated Officers are responsible for ensuring that a register of significant risks is maintained, reported and monitored.
- 5.3 Designated Officers will:
- Produce a strategy for the management of risk in their service.
  - Ensure that risk considerations are embedded into planning and decision making processes.
  - Identify those activities which have or may give rise to significant loss producing events.
  - Measure the impact of potential loss.
  - Take reasonable physical or financial steps to avoid or reduce the impact of potential losses.
  - Allocate risk management resources to areas of identified priority.
  - Maximise risk management opportunities that can impact positively on the Authority's reputation, aims and objectives.
  - Ensure managers and Officers are equipped with the necessary skills to manage risk effectively.
  - Ensure that strategic partners and service providers are aware of the importance of risk management.
  - Ensure that the Chief Finance Officer is promptly provided with any information he requires on risk management issues.
  - Report the risk implications of recommended strategies, policies, and service delivery options to Members of the Authority.

## 6. Accounting

- 6.1 The Chief Finance Officer shall with respect to the services provided by the Constituent Authority identified by the Head of Paid Service as the lead authority for these roles:
- Determine accounting systems and procedures and the form of financial records and statements.
  - Provide guidance and advice on all accounting matters.
  - Monitor accounting performance to ensure an adequate standard for all services.
  - Certify financial returns, grant claims and other periodic financial reports required of the Combined Authority.
- 6.2 Each Designated Officer shall:
- Implement accounting procedures and adopt the form of financial records and statements as determined by the Chief Finance Officer.
  - Obtain the prior written approval of the Chief Finance Officer before introducing or changing significantly the form or method of existing accounting systems and procedures, financial records or statement (see below).
  - Complete and pass to the Chief Finance Officer financial returns and other financial reports requiring certification.
  - Keep a proper and effective separation of duties for staff with financial responsibilities.

NOTE: Approval procedure for changes to financial systems: Prior approval is to be requested from the Chief Finance Officer in writing. The request must give details of the proposed change and the anticipated benefit from the change, an estimate of the costs involved and the proposed implementation date. Internal Audit advice should be sought for all proposed changes at as early a stage as possible.

## **7. Internal Audit**

The Authority has responsibility for all matters of financial significance including the review of matters arising from audit, both internal and external. The Audit and Standards Committee is responsible for overseeing issues relating to financial probity. Reference should also be made to the Anti-Fraud and Corruption Policy.

7.1 Internal Audit is required to provide an objective audit service in line with the CIPFA Code of Practice for Internal Audit in Local Government and professional auditing standards. To this end Internal Audit will have no executive functions that might compromise its objectivity, and the Chief Internal Auditor of the Lead Authority providing the internal audit service shall have direct access to, and the freedom to report to Members and all senior management including the Chief Finance Officer, the Head of Paid Service and the Monitoring Officer to the Authority.

7.2 The Chief Finance Officer shall:

- Maintain an adequate and effective system of internal audit of the accounting records and control systems of the Authority;
- Advise the Authority of material issues of financial control and report to Audit and Standards Committee on the adequacy of the systems of internal control;
- Where evidence of fraud, misappropriation or theft is discovered, decide after consultation with the relevant Designated Officers(s) and the Monitoring Officer, whether to refer the matter to the Police.

7.3 The Chief Finance Officer or his or her representatives are authorised to:

- Visit any establishment of the Authority;
- Have immediate access to all records and documents;
- Require the immediate production of cash, stores or any other property owned or held by the Authority;
- Require and receive promptly full and accurate explanations to any points requested.

7.4 Each Designated Officer shall:

- Ensure that all reasonable assistance and co-operation is given to internal auditors.
- Respond fully without undue delay to any enquiries or recommendations made by the Chief Finance Officer.
- Inform the Chief Finance Officer, as soon as possible, of failures of financial control, including matters that involve, or may involve, financial irregularity.



The Chief Finance Officer and each Designated Officer jointly shall investigate failures of financial control, including matters that involve, or may involve, financial irregularity.

## **8. Procurement and Contracts**

8.1 The Procurement Procedure Rules for the Constituent Authority designated as lead authority for the following exercises shall apply and be followed whenever the Combined Authority wishes to arrange for:

- a) The purchase of goods, materials and related services (that is, services which are integral to the provision of those goods or materials, such as installation, servicing, maintenance etc);
- b) The execution of works; or
- c) The provision of other services (including consultancy).

8.2 Where the County Council of Durham wishes to arrange for:

- a) The purchase of goods, materials and related services (that is, services which are integral to the provision of those goods or materials, such as installation, servicing, maintenance etc);
- b) The execution of works; or
- c) The provision of other services (including consultancy).

In the exercise of its functions on behalf of NECA within its own boundaries, the appropriate Constituent Authority's Procurement Procedure Rules shall apply. The opportunity to secure efficiencies and value for money from joint procurement arrangements should be considered, where it is possible to do so.

8.3 The Procurement Procedure Rules of the Authority designated in 8.1 and 8.2 are part of this Financial Regulation 8 and failure to comply with them shall amount to a breach of financial regulations.

8.4 In addition to the specific provisions of the Procurement Procedure Rules, any procurement of goods, materials, works or services shall have regard to and seek to implement the following general principles:

- a) The need to ensure the Authority and those within its area obtain good value for money and are properly protected as consumers of the goods, works or services;
- b) The need to ensure and demonstrate true and fair competition, without unlawful discrimination;
- c) The need to ensure the procurement process is transparent and accountable and susceptible to full audit;
- d) The need to ensure the elimination of any opportunities for fraud or corruption.

## **9. Relationship between NECA and Nexus**

NECA in its role as the strategic authority and Nexus in its role as the executive body of NECA in relation to transport functions in Tyne and Wear responsible for

implementing policy have close links at every level. They are, however, separate bodies linked together by reciprocal financial duties and responsibilities.

## **Financial duties and responsibilities of Nexus to NECA**

### **9.1 Forward and Budget Strategy**

The general principles to be followed by Nexus are set out at FR 2. In addition the following regulation applies:

- Nexus has a requirement to prepare each year a three-year Forward Plan.
- Revenue and Capital Estimates  
Nexus shall submit to the Leadership Board via the Joint Transport Committee detailed estimates of its expenditure and income, both capital and revenue based upon the three-year plan, taking into consideration the resource allocations determined by the Leadership Board.

### **9.2 Incurring and Controlling Revenue and Capital Spending and Income**

The general principles to be followed by Nexus are set out in the Financial Procedure Notes that accompany these Financial Regulations which are generally replicated in Nexus' own set of financial regulations. As a separate body Nexus is responsible for having its own accounting systems and procedures in place to enable it to make regular comparisons between approved estimates and actual and committed expenditure, fares and other income.

In addition the following regulations apply:

- Nexus shall only incur expenditure for the purposes stated in the approved NECA revenue budget, these main budget heads being "Concessionary Travel" and "Revenue Support".
- Nexus shall report to the Leadership Board on any operational decisions made during the year on fares, service levels etc. that will have a significant impact upon its budget position.
- Nexus shall only incur expenditure for the purposes stated in the approved NECA capital programme, these main budget heads being "Metro Asset Renewal Plan" and "Local Transport Plan".
- Nexus, in consultation with the Chief Finance Officer, shall submit quarterly reports to the Leadership Board comparing the progress of its actual spend and commitments against its approved NECA revenue and capital budgets.
- Where an overspend (or underspend) is anticipated in relation to one of its main budget heads Nexus shall submit, jointly with the Chief Finance Officer, a report to the Authority setting out the reasons for the variation. Where Nexus has been unable to take corrective action, this report shall identify any alternative options that may be available to Authority to take corrective action.

## **Financial Duties and Responsibilities of NECA to Nexus**

### **9.3 Forward Planning and Budget Strategy**

9.3.1 NECA through the Joint Transport Committee has a duty to consider Nexus' three-year plan and formally approve it after making any modifications considered necessary.

9.3.2 NECA through the Joint Transport Committee can require from Nexus any supplementary information to enable it to properly consider the three-year plan.

#### **9.3.3 Annual Estimates**

On behalf of NECA, the Joint Transport Committee shall determine the resource allocations within which Nexus must prepare its budget. In doing so, the Joint Transport Committee will take into consideration all relevant factors including Central Government restrictions on expenditure, levels of reserves, and permitted borrowing.

9.3.4 The Chief Finance Officer, in consultation with Nexus, shall report the overall budget position to the Leadership Board through the Joint Transport Committee, not later than the month of February of the preceding financial year.

### **9.4 Payment of Grant to Nexus**

The Chief Finance Officer shall determine arrangements for the payment of the revenue grant to Nexus in consultation with Nexus. These arrangements include the mechanism by which payment is made and their regularity and timing.

### **9.5 Borrowings**

The Chief Finance Officer shall work with Nexus to understand the extent to which the powers that fall to Nexus under the Transport Act 1968 or to the ITA under the same Act are being fully and properly discharged:

- All borrowings on behalf of Nexus (except temporary borrowing);
- The Registrar of Stocks, Bonds and Mortgages on behalf of Nexus (unless otherwise authorised by the Authority);
- The arrangements for the financing of expenditure of Nexus by borrowing and the repayment of the resulting debt charges in consultation with Nexus as appropriate.

## **10. Financial Controls**

10.1 As required by Financial Regulation 1.7 the Designated Officers and the Director of Finance and Resources, Nexus are, for the areas under their control, responsible for ensuring that the arrangements, guidelines and procedures for the proper administration of financial affairs are operated in accordance with the appropriate Financial Regulations

10.2 Designated Officers of the Authority are required to ensure that the controls as listed in Financial Procedure Notes issued from time to time are present, although

these officers may, except where explicitly stated otherwise, determine the detail of the controls in order to meet service circumstances.

- 10.3 The Financial Procedure Notes issued under this regulation by the Chief Finance Officer are:
- FPN1 Orders for work, goods and services
  - FPN2 Income
  - FPN3 Payment for works, goods and services
  - FPN4 Security and control of assets
  - FPN5 Insurance
  - FPN6 Staffing and payroll
  - FPN7 Reimbursement of expenses and payment of allowances
  - FPN8 Banking arrangements and cheques
  - FPN 9 Investments and borrowing
  - FPN10 Information technology and data protection
  - FPR11 Commitment of Capital Expenditure.
- 10.4 Further Financial Procedure notes, or amendments, may be made from time to time by the Chief Finance Officer.
- 10.5 Further advice on all areas of financial control is available from the Chief Finance Officer who may issue detailed guidance notes on specific controls as necessary. These will be referred to as Financial Best Practice Notes.

## Financial Procedure Note 1 – Orders for Work, Goods and Services

### a) Objective

*To ensure that work, goods and services are only ordered for the purposes of the Authority's business and that the resulting expenditure is within budget.*

### b) Application

This Financial Procedure applies in relation to the Direct Services of the Authority and is mandatory for all officers.

### c) Control Checklist

To achieve the above objective, systems should be present to ensure that:

- There is adequate budget provision before committing expenditure;
- Any necessary Authority approvals have been obtained;
- Purchases are in accordance with the Financial Regulation 8;
- That all order documentation used meets the requirements of Financial Regulation 8.

Note: Official Authority orders must:

- Be headed 'NECA' on behalf of the 'Durham, Gateshead, South Tyneside and Sunderland Combined Authority';
- State 'Official Order';
- Be numbered;
- Include the name and address of the ordering section, and delivery address if different;
- Show the cost code to be charged;
- Be signed by, and state post of an authorised officer; and
- Include the information required in Financial Regulation 8, including the Procurement Procedure Rules.

Order must be signed only by staff with proper authorisation to do so.

**d) Comments**

Staff authorised to order work, goods and services must ensure that they are aware of any necessary authorisations required and of the Lead Authority's Purchasing Policy.

The lead authority's Purchase Order System must be used whenever possible as it facilitates compliance with the above requirements and collects data to support development of the Purchasing Policy.

## Financial Procedure Note 2 – Income

### a) Objective

To ensure that all income due to the Authority is promptly collected, banked and properly accounted for.

### b) Application

This Financial Procedure applies in relation to the Direct Services of the Authority and is mandatory for all officers.

### c) Control Checklist

To achieve the above objective, systems should be present to ensure that:

- Budgeted income is fully and promptly collected;
- The Chief Finance Officer is promptly informed of all new sources of income, the sums anticipated and collection arrangements;
- The advice of the Chief Finance Officer is sought prior to the signing of agreements which provide for variable income;
- The basis and level of fees and charges are regularly reviewed;
- Income is collected in advance of service, or where not possible, by official invoice;
- All cheques received are made payable to 'NECA' on behalf of the "Durham, Gateshead, South Tyneside and Sunderland Combined Authority". Uncrossed cheques received are crossed 'NECA' on behalf of the "Durham, Gateshead, South Tyneside and Sunderland Combined Authority";
- Money received (other than cash paid for vehicle tolls) is acknowledged by the issue of an official receipt, ticket or voucher. (See (d) below.);
- The transfer of official money between staff is evidenced;
- Income collected is banked promptly and held securely prior to banking;
- Money held awaiting banking is insured against theft;
- Money banked is credited to the correct financial account and compared to budget estimate;

- Arrangements for payment by instalment are authorised in advance by the Chief Finance Officer;
- Prior authorisation is obtained to the write-off of uncollectible income by the Chief Finance Officer;
- The Chief Finance Officer must approve claims requiring certification in the name of the Chief Financial Officer.

**d) Special requirements**

Personal cheques must not be cashed out of money held on behalf of the Authority.



## **Financial Procedure Note 3 – Payment for Works, Goods and Services**

### **1. Objective**

To ensure that payments are made only for works, goods or services received by the Authority and has been certified as such.

### **2. Application**

This Financial Procedure applies in relation to the Direct Services of the Authority and is mandatory for all officers.

### **3. Control Checklist**

To achieve the above objective systems should be present to ensure that:

#### 1. Pre-payment checks are undertaken to ensure that:

- The goods have been received and examined, meet the required specification and work done or services rendered have been satisfactorily carried out;
- The invoice is in accordance with the contract or order, is arithmetically correct, and has due discounts deducted;
- The payment has not previously been made;
- The payment is authorised.

#### 2. The method of payment is appropriate.

- By use of the corporate creditors system for payment by BACS or cheque (note BACS is the preferred method and must be used wherever possible);
- By imprest account or petty cash for minor sums;
- By some other means as agreed with the Chief Finance Officer.

#### 3. Payment is timely.

- To meet supplier/contractor terms of trade and legislative requirements;
- Justification is provided if urgent payment or dispatch of cheque is required.

4. Transactions are properly accounted for, including;

- proper use of financial codes;
- compliance with HM Revenue and Customs regulations;
- The maintenance of a Register of Contracts by the Chief Finance Officer.

**d) Special Requirements - Advance Payments**

No commitments shall be entered into for goods, work or services for which the supplier or contractor requires payment in advance until the Designated Officer has confirmed the financial standing of the payee with the Chief Finance Officer.

## Financial Procedure Note 4 – Security and Control of Assets

### a) Objective

To ensure the proper use and safeguarding of assets owned by the Authority or for which the Authority has responsibility.

### b) Application

This Financial Procedure applies in relation to the Direct Services of the Authority and is mandatory for all officers.

### c) Control Checklist

To achieve the above objective systems should be present to ensure that:

- Proper security is maintained at all times;
- Assets are recorded and accounted for;
- The use of assets is restricted to authorised Authority business;
- Surplus assets, except land and buildings, are disposed of in accordance with procedures agreed with the Purchasing Manager of the Constituent Authority identified by the Head of Paid Service as being responsible.

In addition, the following controls apply to land and buildings:

- The Head of Property Services of the Constituent Authority identified by the Head of Paid Service as being responsible for land and buildings has overall responsibility for advising on land issues;
- The disposal of land and buildings will be carried out under any scheme of delegations or protocol agreed by the Leadership Board or otherwise with the express approval of the Leadership Board;
- A detailed record of all land and property owned by the Authority shall be maintained by the Head of Property Services of the Constituent Authority identified by the Head of Paid Service as being responsible for land and buildings;
- The Monitoring Officer shall have custody of all title deeds and be responsible for their security;
- Entry should not be allowed into property of NECA without the signing of formal documentation. (If a situation should arise where early entry in connection with a major transaction is required, The Head of Property Services of the Constituent Authority identified by the Head of Paid Service as being responsible for land and buildings will have delegated authority to agree this as appropriate.

**d) Comment**

This financial procedure note applies to all assets, including stocks, stores equipment and vehicles (with either an individual value of £500 or more or a collective value of £2,000 or more) and all cash, land and buildings, that are owned by, or are in the possession of the Combined Authority and for which the Combined Authority is responsible. The form and content of the record is for local decision following consultation with the Chief Finance Officer but must be sufficient to allow verification and to support Balance Sheet entries.

## Financial Procedure Note 5 – Insurance

### a) Objective

To ensure that the Combined Authority manages all potential insurable risks and liabilities and to limit the authority for arranging insurance cover to the Chief Finance Officer.

### b) Application

This Financial Procedure applies in relation to the Direct Services of the Combined Authority and is mandatory for all officers.

### c) Control Checklist

To achieve the above objective, systems should be present to ensure that:

- New risks and any alterations to existing risks are reported to the Chief Finance Officer immediately;
- Combined Authority risks are reviewed annually in accordance with the timetable issued by the Chief Finance Officer;
- Claims are reported in accordance with the guidelines issued by the Constituent Authority identified by the Head of Paid Service as being responsible for insurance and supporting information is provided within required timescales;
- Policy requirements and warranties, notified by the Constituent Authority identified by the Head of Paid Service as being responsible for insurance, are complied with at all times;
- Insurers' loss control requirements are responded to within the relevant timescales.

### d) Comment

Each Designated Officer is responsible for identifying, assessing and reporting risks to the Chief Finance Officer.

The Chief Finance Officer is responsible for arranging all insurance cover and for ensuring the annual review of insurance cover.

## **Financial Procedure Note 6 – Staffing and Payroll**

### **a) Objective**

To ensure that staff are appointed in accordance with the Combined Authority's Code of Practice on Recruitment and Selection, are paid in accordance with their Contract of Employment and to ensure leavers are removed from the payroll.

### **b) Application**

This Financial Procedure applies in relation to the Direct Services of the Authority and is mandatory for all officers.

### **c) Control Checklist**

To achieve the above objective, systems should be present to ensure that:

- The Code of Practice on Recruitment and Selection is observed in the appointment of staff;
- Amendments to the payroll – including appointments, resignations and changes to Contracts of Employment - are notified to the Head of Service of the Constituent Authority designated by the Chief Finance Officer as being responsible for Human Resources in accordance with payroll deadlines and in the form specified;
- Details of salary and wage amounts to be paid are provided in a form and to a timetable determined by the Chief Finance Officer;
- Uncollected payments are promptly returned to the Authority that made the payment;
- An annual check of staff paid and charged to the financial accounts is undertaken.

## **Financial Procedure Note 7 – Reimbursement of Expenses and Payment of Allowances**

### **a) Objective**

To ensure that the reimbursement of allowances and expenses to staff and members is in accordance with the appropriate agreements and legislation.

### **b) Application**

This Financial Procedure applies in relation to the Direct Services of the Authority and is mandatory for all officers.

### **c) Control Checklist**

To achieve the above objective systems should be present to ensure that:

#### Staff

- Claims are submitted within one calendar month of the expense being incurred and include sufficient information to allow verification.
- Allowances and expenses are as approved for payment to Combined Authority staff.
- Payment is made in accordance with procedures determined by the Chief Finance Officer.

#### Members

- Claims are submitted within one calendar month of the expense being incurred and include sufficient information to allow verification.
- Allowances for independent members and expenses are as approved for payment to Authority members.
- Payment is made in accordance with procedures determined by the Chief Finance Officer.

### **d) Comment**

Particular care must be taken to ensure that all payments to individuals, including additional payments to Officers, meet the requirements of the Inland Revenue.

Expenses claims should be supported by receipts whenever possible.

## **Financial Procedure Note 8 – Banking Arrangement and Cheques**

### **a) Objective**

To ensure sound banking and payments arrangements by limiting responsibility for it to the Chief Finance Officer.

### **b) Application**

This Financial Procedure applies in relation to the Direct Services of the Authority and is mandatory for all officers.

### **c) Control Checklist**

To achieve the above objective systems should be present to ensure that:

- No bank account, or similar, is to be opened except with the authority of the Chief Finance Officer.
- The maintenance of Combined Authority bank accounts is in accordance with arrangements determined by the Chief Finance Officer.
- Cheques shall be ordered only on the authority of the Chief Finance Officer and controlled securely prior to use.
- The approval of the Chief Finance Officer is obtained to any proposal to enter a credit agreement.



## Financial Procedure Note 9 – Investments and Borrowing

### a) Objective

To limit the authority for managing the Authority's Investments and Borrowing to the Chief Finance Officer and to ensure those activities in this area is properly regulated.

### b) Application

This Financial Procedure applies in relation to the Direct Services of the Combined Authority and is mandatory for all officers.

### c) Control Checklist

To achieve the above objective systems should be present to ensure that:

- No investment or borrowing transaction is undertaken except with the prior written authority of the Chief Finance Officer;
- Combined Authority bank accounts do not become overdrawn;
- The Chief Finance Officer shall ensure that:
  1. The Authority will create and maintain, as the cornerstones for effective treasury management:
    - a) a treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities
    - b) suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
  2. The content of the policy and the TMPs will follow the recommendations contained in Section 6 and 7 of the Prudential Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.
  3. The Leadership Board will receive reports on treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.
  4. NECA delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Audit and Standards Committee, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with NECA's policy statement and TMPs and if that officer is a

CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.

5. NECA is responsible for ensuring effective scrutiny of the treasury management strategy and policies.

- All investments and borrowing are made by the Chief Finance Officer and are in the name of the Durham, Gateshead, South Tyneside and Sunderland Combined Authority, with the exception of Investments and Borrowing made specifically in respect of Nexus;
- A separate record of the Capital Finance Requirement in relation to Transport services in the former administrative region of the county of Tyne and Wear and Durham County is maintained and reported annually by the Chief Finance Officer;
- All securities are held by the Chief Finance Officer;
- The Chief Finance Officer is the Combined Authority's Registrar of Stocks, Bonds and Mortgages;
- Investments held at the end of each financial year are reported to Leadership Board by the Chief Finance Officer as soon as possible after 31 March;
- All Treasury Management activities are conducted in line with the relevant CIPFA Code of Practice for Treasury Management in Local Authorities; and
- There is an adequate division of duties between arranging and settling of transactions.

Any exceptions to the above can only be authorised by the Combined Authority.

## **Financial Procedure Note 10 - Information Technology and Data Protection**

### **a) Objective**

To ensure the orderly and secure development of information technology and the proper control of information held.

### **b) Application**

This Financial Procedure applies in relation to the Direct Services of the Combined Authority and is mandatory for all officers.

### **c) Control**

Checklist to achieve the above objective, systems should be present to ensure that:

- Investment in IT complies with the Combined Authority's IT and Information Security strategies and policies.
- All IT purchases:
  - i) Comply with the lead authority's corporate standards and guidelines (including the IT procurement guidelines) unless there are sound reasons to do otherwise;
  - ii) Have necessary capital approvals in place;
  - iii) Are included on an Authority-wide register of IT assets.
- The use of IT and the control of information held are subject to the IT security policy of the Constituent Authority designated by the Chief Finance Officer as being responsible for IT.

## Financial Procedure Note 11 – Commitment of Capital Expenditure

- a) Authority to commit capital expenditure is based on the Capital Programme (the Programme). The Programme is approved by the Leadership Board and is updated regularly to reflect changes in the cost and phasing of schemes and the addition of new schemes.
- b) Inclusion of a scheme in the Programme gives authority to begin procurement and contract procedures subject to the limitations below.
- c) For schemes included in the Programme for commencement in the first financial year (i.e. current financial year) designated Officers have the authority to progress a scheme up to and including contract signature subject to:
  - The Corporate Procurement Strategy of the Constituent Authority identified by the Head of Paid Service as being responsible for procurement.
  - Full compliance with the provisions of Financial Regulation 8 on tenders and quotations;
  - Tender costs not exceeding the Programme provision by more than 5% or £50,000, whichever is the lower, provided the source of funding for the additional cost has been identified;
  - Completion of a tender summary report in the form prescribed by the Chief Finance Officer;
  - Certification by the Chief Finance Officer of the tender summary report.

Schemes not meeting these conditions, or where:

- It is proposed to accept other than the lowest tender (where price is the determining criteria), or
- The Leadership Board has directed its approval is required

Must be reported to the Leadership Board for approval to proceed to contract Signature.

- d) Financial Regulation 8 covers contract signature requirements.
- e) For schemes included in the Programme for commencement in any subsequent financial year, Designated Officers have authority to prepare plans and carry out other preliminary work during the first financial year up to a maximum of £50,000.
- f) Proposals to incur preliminary expenditure or commitments above £50,000 must be approved by the Chief Finance Officer and must be recorded by the Chief Finance Officer as a delegated decision.

Note: This authority for preliminary expenditure only applies to schemes in the programme. Confirmation of scheme approval must be sought at the earliest opportunity if significant changes, either in objective, estimated cost or phasing, are proposed.

**g)** Once commenced, Designated officers have approval to incur:

- Additional expenditure arising from the operation of a 'fluctuation of price' clause;
- Increased costs not exceeding 5% of the contract value or £50,000 whichever is the lower.

Subject to the increased amount being reported for inclusion in the Capital Monitoring Progress Reports to the Leadership Board (where deemed significant by the Chief Finance Officer) and inclusion in the Capital Programme at the earliest opportunity.

## Part 6 Codes of Conduct and Protocols

### Introduction

The purpose of the code and protocols is to help guide members and also officers in their respective roles within the Combined Authority, in their dealings with each other and others they come into contact with.

Given the variety and complexity of those roles and relations, the code and protocols are not prescriptive and may not cover all situations. They provide guidance on situations that commonly occur. They are in part a written statement of good current practice and convention, but aim to promote greater clarity and certainty. They also aim to address those particular issues arising from the relationship between Chief Officers, Officers and members of NECA, Leadership Board, the Chair of the Leadership Board and Chairs of Committees, Overview and Scrutiny Committees and Sub-Committees.

In effective high performing authorities Officers and Members work well together with trust and mutual respect for their respective roles. NECA Members and Officers fulfil different but complementary roles.

One important feature which underpins the activities of all Members when acting in their official capacity is the ethical framework. The basis of this is that people expect local authorities and Elected Members to maintain high standards of conduct when carrying out their responsibilities.

The Localism Act 2011 places a statutory obligation on NECA to promote and maintain high standards of conduct by its elected Members. As a result NECA has adopted a Code of Conduct for Elected Members (“Members’ Code of Conduct”) and local arrangements for how complaints will be dealt with. The Code is part of NECA’s Constitution and can be found in Part 6.1, the local arrangements are an appendix to the Code.

By keeping to the spirit, as well as the letter of the Code, Members can be confident of maintaining the standards of conduct expected of them. It is also important that everyone involved with the Combined Authority’s work, including members of the public, officers, or representatives of other organisations, embrace the Code, and also accept that it may sometimes determine the way members can deal with particular issues.

The guidance in the protocols will help Members to keep within the Code. In addition to that it also sets out protocols to promote effective working.

NECA will periodically review the guidance to make sure it keeps pace with changes in the law or common practice.

In general terms, if Members are not sure about the action to take in any circumstance there is a very simple rule to follow - **ask first, act later!** The Monitoring Officer will be pleased to give advice and guidance to members on any part of the Code or the protocols.

## Part 6.1 Code of Conduct for Members

### 1. Introduction

With effect from 29 April 2014, The Durham, Gateshead, Newcastle upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority adopted a Code of Conduct for Members attached at **Appendix 1**. The purpose of the Code is to govern the behaviour of elected Members of the Combined Authority. Notwithstanding the Second Order the Code of Conduct remains unchanged save for the necessary amendments resulting from the Second Order and reflecting changes in the principal office of NECA.

Members, upon appointment, must agree to abide by the Code. If a Member fails to comply with the requirements of the Code a complaint can be made. Details of the procedure for making a complaint and the complaint form are available on NECA's website or direct from:

The Monitoring Officer  
North East Combined Authority  
South Tyneside MBC  
Town Hall and Civic Offices  
Westoe Road  
South Shields  
NE33 2RL

[nicola.robason@southtyneside.gov.uk](mailto:nicola.robason@southtyneside.gov.uk)

NECA's Code of Conduct for Members is supported by the principles of public life recommended by the Nolan Committee, and the relevant protocols and procedures of NECA.

### 2. Supporting protocols and procedures

The following documents should be read in conjunction with the Members' Code of Conduct:

- Protocol on Member/Officer relations which sets out the respective roles of Members and Officers and how they should expect to be treated by each other.
- Code of Conduct for Officers, which forms part of this Constitution, is designed to help staff work in a way that will bring credit to themselves and the Combined Authority.
- Whistleblowing Policies to enable officers and Members to raise concerns about issues of conduct without fear of reprisal.

Should there be any conflict between any of these documents in relation to Members' conduct; the Members' Code of Conduct will take precedence.

The procedure (“local arrangements”) for dealing with complaints against Members under this Code is attached at appendix 2.



### **3. Personal Responsibility**

Members accept that they have a duty to act within the law. Members have a personal responsibility to ensure that they are aware of the rules of personal conduct and that they comply with them. Members will ensure that they regularly review their personal circumstances to ensure that they do not breach any of the high standards that they have agreed to uphold. Members recognise that they represent the whole community and not just those who voted for them. In deciding how to vote and act Members are aware that they are personally responsible for their actions. Members are influenced by the opinions of others, and a Member's political party will be a strong influence but because they are personally responsible for what they do, Members will make up their own minds about how to act and vote.

Members agree they must be able to justify their actions to the public. Members recognise that they have a duty to foster and develop the public's faith in the honesty of the Combined Authority and its Members.

### **4. Committees**

Members agree not to seek to be members of a committee if their private interests are likely to mean that they would frequently have to withdraw from the committee's consideration of issues. A Member also agrees that they will not seek to be Chair of the Leadership Board or a chair of a committee if they or a body they are associated with has a substantial financial interest in the activities of NECA or a particular committee.

### **5. Bodies outside of the Combined Authority**

Members agree to apply the standards and rules they observe in NECA meetings to their behaviour at all the meetings they attend as a representative of NECA unless the Code of Conduct of that other body is in conflict with NECA Members' Code of Conduct, in which case the Code of Conduct of the external body shall take precedence.

### **6. Whistleblowing**

Members' conduct is also covered by NECA's Whistleblowing Policy. Through this policy officers may confidentially refer a concern about a breach of the Members' Code of Conduct to a designated officer, rather than making the complaint themselves through the Members' Code of Conduct Procedure.

**Appendix 1****The Durham, Gateshead, South Tyneside and Sunderland  
Combined Authority  
Code of Conduct for Members**

The North East Combined Authority has adopted the following code which has effect from 29 April 2014 and which sets out the conduct that is expected of elected members appointed to NECA when they are acting in that capacity.

**This means the code applies whenever you:**

- (a) Conduct the business of NECA (including the business of your office as an elected member appointed to NECA) or**
- (b) Act, claim to act or give the impression you are acting as a representative of NECA.**

The code is intended to be consistent with Nolan's Seven Principles of Public Life, and should be read in the light of those principles, namely that Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Those Principles are not part of this Code but are set out in full at Annex 1 for information.

**Part 1 - General Conduct**

1. You must treat others with respect, including NECA officers and other elected members.
2. You must not bully any person (including specifically any NECA Officer) and you must not intimidate or improperly influence, or attempt to intimidate or improperly influence, any person who is involved in any complaint about any alleged breach of this code of conduct.
3. You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of NECA.
4. You must not conduct yourself in a manner which could reasonably be regarded as bringing NECA, or your office as a member of NECA, into disrepute.
5. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person any advantage or disadvantage.
6. You must comply with any Protocol adopted by NECA which seeks to regulate the conduct of its elected members and which the Leadership Board has specifically declared should fall within the provisions of this code of conduct and which is listed in Annex 5 to this Code.

7. When using or authorising the use by others of the resources of NECA, you must act in accordance with NECA's reasonable requirements (as set out in such protocol as it may adopt from time to time for these purposes) and must ensure they are not used for party political purposes.
8. You must not prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
9. You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:
  - (a) You have the consent of a person authorised to give it; or
  - (b) You are required by law to do so; or
  - (c) The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
  - (d) The disclosure is reasonable and in the public interest and made in good faith.
10. Where you have been involved in making any decision by NECA which is subsequently subject to scrutiny by an overview and scrutiny committee of NECA, you must not take part in that scrutiny process except to the extent you may be invited by the committee to give evidence to, or otherwise assist, it. In this paragraph, 'scrutiny' means the formal examination of a policy or decision previously approved or taken by or on behalf of NECA in order to reach a view as to its merits or effectiveness.

## Part 2 – Registration of Interests

11. You must register in NECA's Register of Members Interests information about your registerable personal interests. In this code of conduct 'your registerable personal interests' means:
  - (a) Any Disclosable Pecuniary Interest as set out in **Annex 2**; or
  - (b) Any other interest held by you as set out in **Annex 3**.

You must register information about your registerable personal interests by giving written notice to the Monitoring Officer, who maintains the Register, within 28 days of:

- your appointment as a member of NECA; and
- any change taking place in your registerable personal interests.

(Note: Failure without reasonable excuse to register a Disclosable Pecuniary Interest is a criminal offence under section 34 of the Localism Act 2011 as well as being a breach of this code.)

12. Where you think that disclosure of the details of any of your registerable personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, the Monitoring Officer may at your request make a note on the Register that you have a personal interest, details of which are withheld.

### **Part 3 – Non-registerable interests**

13. You will have a non-registerable personal interest when you attend a meeting of NECA, or one of its joint committees, committees or sub-committees, and you are, or ought reasonably to be, aware that a decision in relation to an item of business which is to be transacted might reasonably be regarded as affecting your well-being or financial position, or the well-being or financial position of a person described in paragraph 14 to a greater extent than most inhabitants of the Combined Area by the decision.

14. The persons referred to in paragraph 13 are:

- (a) A member of your family;
- (b) Any person with whom you have a close association;
- (c) In relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or shareholder.

(Note:

- (a) “A member of your family” means: your partner (i.e. your spouse, civil partner or anyone with whom you live in a similar capacity); your parent or parent-in-law; any child, stepchild or sibling of you or your partner; your grandparent, grandchild, aunt, uncle, nephew or niece; and the partners of any of those people.
- (b) You have a “close association” with someone if your relationship is such that a reasonable member of the public might think you would be prepared to favour or disadvantage that person when deciding a matter which affects them).

15. When you attend a meeting of NECA, or one of its joint committees, committees or sub-committees, and you are aware that you have a non- registerable interest in an item of business (as defined in paragraph 13) you must disclose that interest to the meeting before consideration of that item begins or (if later) when you become aware of the interest.

### **Part 4 - Non-Participation in NECA Business**

16. When you attend a meeting of NECA or one of its joint committees, committees or sub-committees, and you are aware that the criteria set out in paragraph 17 are satisfied in relation to any matter to be considered, or being considered at that meeting, you must:

- (a) Declare that fact to the meeting;
  - (b) Not participate (or further participate) in any discussion of the matter at the meeting; and
  - (c) Not participate in any vote (or further vote) taken on the matter at the meeting;
  - (d) Leave the room whilst the matter is being discussed.
17. The criteria for the purposes of paragraph 16 are that:
- (a) You have a registerable or non-registerable personal interest in the matter which is such that a member of the public knowing the relevant facts would reasonably think it so significant that it is likely to prejudice your judgement of the public interest;
- and either**
- (b) The matter will affect the financial position of yourself or one of the persons or bodies referred to in paragraph 14 or in any of your register entries;
- or**
- (c) The matter concerns a request for any permission, licence, consent or registration sought by yourself or any of the persons referred to in paragraph 14 or in any of your register entries.
18. If a NECA function can be discharged by you as a member acting alone and you are aware you have a registerable or non-registerable personal interest in any matter to be dealt with by you in that way which meets the criteria set out in paragraph 17, you shall not deal with that matter in any way (except to enable it to be dealt with by someone else).
- (Note: Failure, without reasonable excuse, to comply with paragraph 16 to 18 in relation to a Disclosable Pecuniary Interest is a criminal offence under section 34 Localism Act 2011 as well as being a breach of this code.)
19. Paragraphs 16 to 18 do not apply if (i) you have a relevant dispensation under section 33 of the Localism Act 2011 (see Annex 4) or (ii) the matter in question relates to any of the following functions of NECA:
- a) statutory sick pay where you are in receipt of, or entitled to receipt of, such pay;
  - b) an allowance, payment or indemnity given to members;
  - c) any ceremonial honour given to members; and
  - d) setting council tax or a precept/levy under the Local Government Finance Act 1992.

**Annex 1 to Code of Conduct****Nolan's Seven Principles of Public Life****Selflessness**

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**Integrity**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

**Objectivity**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership**

Holders of public office should promote and support these principles by leadership and example.

**Annex 2 to Code of Conduct****Disclosable Pecuniary Interests**

(as defined by Regulations made by the Secretary of State under section 30 Localism Act 2011)

**Please Note:** The following interests are Disclosable Pecuniary Interests if they are an interest of either (a) **yourself**, or (b) **your spouse or civil partner**, or (c) **a person with whom you are living as husband and wife**, or (d) **a person with whom you are living as if you were civil partners** (all of whom are referred to as “relevant persons”):-

**Employment, office, trade, profession or vocation** - Any employment, office, trade, profession or vocation carried on for profit or gain.

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

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

**Contracts** - Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and NECA —

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

**Land** - Any beneficial interest in land which is within the area of NECA.

**Licences** - Any licence (alone or jointly with others) to occupy land in the area of NECA for a month or longer.

**Corporate tenancies** - Any tenancy where (to your knowledge)—

- (a) the landlord is NECA; and
- (b) the tenant is a body in which the relevant person has a beneficial interest.

**Securities** - Any beneficial interest in securities of a body where—

- (a) that body (to your knowledge) has a place of business or land in the area of NECA; and
- (b) either—
  - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
  - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant

person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Note: In the above descriptions, the following words have the following meanings –

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.



**Annex 3 to Code of Conduct****Other Registerable Personal Interests**

The other interests which you must register under paragraph 11(b) of the code are:

1. Any body of which you are a member (or in a position of general control or management) to which you are appointed or nominated by NECA;
2. Any body which (i) exercises functions of a public nature or (ii) has charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member (or in a position of general control or management);
3. Any person from whom you have received within the previous three years a gift or hospitality with an estimated value of more than £50 which is attributable to your position as member of NECA.

Note: These mean only your interests and not those of your spouse or civil partner

**Annex 4 to Code of Conduct****Dispensations Procedure**

A Registerable Personal Interest may in relation to any item of business considered at any meeting of NECA (including specifically in connection with an Authority budget setting meeting) mean that the criteria set out in paragraph 17 of the Code of Conduct may be satisfied and require the Member to leave the meeting.

Under Section 33(2)(e) of the Localism Act 2011 a dispensation from the requirements of the Code of Conduct can be granted in the following circumstances:

- 1) So many Members of the decision-making body have interests that require them not to take part in a matter that it would “impede the transaction of the business”. Effectively this means the decision-making body would be inquorate as a result;
- 2) Without a dispensation, no member of the Leadership Board would be able to participate on the matter;
- 3) Without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
- 4) the Authority considers that a dispensation is in the interests of persons living in its area; and
- 5) the Authority considers that it is otherwise appropriate to grant a dispensation.

Members may be given a dispensation either to speak but not vote, or to speak and vote.

The Leadership Board has delegated the granting of dispensations to the Audit and Standards Committee (see Responsibility for Functions Part 3.7 Audit and Standards Committee), which may, but is not required to, convene a Sub-committee for the purposes of determining the matter.

A Member must complete a dispensations form explaining why a dispensation is appropriate and submit it to the Monitoring Officer. A report will be submitted to a meeting of the Audit and Standards Committee (or any Sub-committee convened for that purpose) for the committee to determine what level of dispensation (if any) should be granted and for what duration; the duration must be specified and can be for up to four years.

The Member will receive notification of the decision of the Audit and Standards Committee (or Sub-committee discharging that role) within five working days of the committee meeting. Any dispensations must be declared by the Member at meetings where the dispensation applies.

**Annex 5 to Code of Conduct**

**Protocols which fall within the provisions of the Code of Conduct**

1. Member/Officer Relations Protocol (see Part 6.3).

## Appendix 2

### Arrangements for Dealing with Allegations of Breaches of the Code of Conduct for Members

#### 1. Introduction

These arrangements set out how the Authority will deal with a complaint that an elected or member of the Combined Authority has failed to comply with the Authority's Code of Conduct.

Where a complaint is made against a Member of the Combined Authority, the Monitoring Officer and the Monitoring Officer of the Member's appropriate Constituent Authority will determine whether the complaint is to be properly dealt with in accordance with the Combined Authority's local arrangements or the appropriate Constituent Authority's local arrangements.

Under Section 28(6) and (7) of the Localism Act 2011, the Authority must have in place "arrangements" under which allegations that a Member of NECA, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations. Such arrangements must provide for the Authority to appoint at least one Independent Person, whose views must be sought by the Authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or a Member against whom an allegation has been made.

The Authority has appointed one Independent Person.

#### 2. Receipt of a complaint

A complaint against a Member will be sent by the Complainant in writing or by email to:

NECA Monitoring Officer  
North East Combined Authority  
South Tyneside MBC  
Town Hall & Civic Offices  
Westoe Road  
South Shields  
NE33 2RL

Email: [Nicola.robason@southtyneside.gov.uk](mailto:Nicola.robason@southtyneside.gov.uk)

The Monitoring Officer has statutory responsibility for maintaining the register of members' interests and is responsible for administering the system in respect of complaints of Member misconduct.

The Monitoring Officer will acknowledge receipt of the complaint to the Complainant and provide the subject member of the complaint, with a copy of the complaint within 5 working days of receiving it and will keep all parties informed of the progress of the complaint. The Monitoring Officer will also seek comments from the subject member of the complaint to assist in the initial assessment of the complaint.

### **3. Request for confidentiality**

If a Complainant wants to keep their name and address confidential, they are required to indicate this when they submit their complaint. The Authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

To ensure openness and transparency confidentiality will only be granted in exceptional circumstances and in many instances it would not be practical or possible to investigate a complaint without the identity of the complainant being revealed. If however confidentiality is granted and the complaint proceeds the Monitoring Officer will determine whether or when the subject member will be advised of the complaint and the identity of the complainant. The procedure set out below will be adjusted as appropriate to accommodate the decision of the Monitoring Officer.

Where a request for confidentiality is refused by the Monitoring Officer, the Complainant will be advised of that refusal and will be given the option to withdraw the complaint within 7 working days. If the complaint is withdrawn the matter will be then closed and the subject member will not be informed of the complaint. If the Complainant refuses to withdraw the complaint or does not respond within the specified timescale, then the subject member will be sent a copy of the complaint and the complaint will proceed as set out in paragraph 4 below.

### **4. Will the complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person and consideration of the initial comments of the subject member decide whether the complaint will be investigated. The decision will be based on whether the allegation, if proved, would constitute a failure to observe the Code of Conduct and the application of the Authority's adopted assessment criteria (attached at Annex 1). This decision will normally be taken within 28 days of receipt of the complaint. The parties will be advised of the Monitoring Officer's decision together with the reasons for that decision—subject to any decision on confidentiality arising as referred to above.

Where the Monitoring Officer requires additional information in order to come to a decision, he/she may go back to the Complainant for such information, and may request information from the subject member of the complaint.

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer may refer the complaint to the Police or other regulatory agencies irrespective of a request for confidentiality by the Complainant.

### **5. Informal Resolution**

The Monitoring Officer may consider that a complaint can be reasonably resolved informally. In such a case, the Monitoring Officer will consult with the Independent Persons, the subject member and the Complainant to seek to agree a fair resolution of the complaint which also helps to ensure high standards of conduct for the future. If the subject member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit and Standards Committee for information, but will take no further action.

## **6. How is the investigation conducted?**

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer. The Investigating Officer may be another officer of the Authority, an officer of another Council or an external investigator.

The Investigating Officer will write to the subject member and will ask them to provide their explanation of events, and to identify what documents or other materials they believe the Investigating Officer needs to see and interview.

The Investigating Officer will decide whether he/she needs to meet or speak to Complainant to understand the nature of the complaint and so that the Complainant can explain their understanding of events and suggest what documents or other materials the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the subject member and to the Complainant, to give both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. A copy of the draft report will also be sent to the Monitoring Officer.

Having received and taken account of any comments which the Complainant or subject member may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

## **7. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Audit and Standards Committee will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient and they agree that there is no evidence of a failure to comply with the Code of Conduct, they will instruct the Monitoring Officer to write to the subject member and to the Complainant, notifying both that they are satisfied that no further action is required, and give both a copy of the Investigating Officer's final report.

If the Audit and Standards Committee do not agree with the conclusion that there is no evidence of a failure to comply with the Code of Conduct they will refer the matter for a hearing before the Audit and Standards Committee.

In considering the report, the Audit and Standards Committee will consult with the Authority's Independent Person.

If the Audit and Standards Committee is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider his/her report. Upon the receipt of the report back from the Investigating Officer the Committee will consider whether to accept the report or refer it to a hearing.

## **8. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

a) Local Resolution

Where the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct, there may still be an opportunity for local resolution, avoiding the necessity of a hearing. An investigation report may cause a member to recognise that his/her conduct was at least capable of giving offence, and /or identify other appropriate remedial action, and the Complainant may be satisfied for instance, by recognition of fault or an apology. It would only be appropriate for the Monitoring Officer to agree a local resolution at this stage after consultation with the Authority's Independent Person and the Chair of the Audit and Standards Committee. In addition this would be conditional on the Complainant being satisfied with the outcome. A summary report on any local resolution of a complaint would be reported to the Audit and Standards Committee for information.

b) Referral for Hearing

If local resolution was not possible, the Monitoring Officer will then refer the matter for a hearing before the Committee.

**9. The Hearing**

Where the Audit and Standards Committee has referred a matter for a hearing the procedure at Annex 2 will apply.

**10. What action can the Audit and Standards Committee/Sub-Committee take where a Member has failed to comply with the Code of Conduct?**

The Leadership Board has delegated to the Audit and Standards Committee such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. The Audit and Standards Committee can appoint a Sub-committee to fulfil these responsibilities on its behalf.

Accordingly the Audit and Standards Committee may:

- a) Issue a formal censure;
- b) Refer the determination findings to the Leadership Board for information;
- c) Make publication of the determination findings by such means as thought fit;
- d) Request the Leadership Board to remove the member from being the Chair or Vice Chair of any Committee or Sub-committee;
- e) Request the Leadership Board remove them from any or all Committees or Sub-committees for a specified period;
- f) Request the Leadership Board to remove particular Thematic Lead responsibilities;
- g) Request the Leadership Board to remove the member for a specified time from all or specified outside appointments to which s/he has been appointed or nominated by the Leadership Board;
- h) Offer training to the member; or
- i) Exclude the member from any Combined Authority's offices or other premises or facilities, for a specified period and to the extent desirable and so as not to interfere with the democratic process, in particular the member's ability to carry out his or her role as an elected member.

The Audit and Standards Committee has no power to suspend or disqualify the subject member or to withdraw or suspend allowances or restrict access to or use of Council facilities so that the subject member is unable to perform their essential role as a councillor.



## 11. What happens at the end of the Hearing?

At the end of the hearing, the Chair will state the decision of the Audit and Standards Committee as to whether a Member has failed to comply with the Code of Conduct and as to any actions which the Audit and Standards Committee resolves to take.

As soon as reasonably practicable after that, the Monitoring Officer in consultation with the Chair of the Committee, will prepare a formal decision notice, and send a copy to the Member and the Complainant, make that decision notice available for public inspection on the Combined Authority's website and, if so directed by the Audit and Standards Committee, report the decision to the next convenient meeting of the Leadership Board.

## 12. Review of decisions

Procedures for the review of decisions are set out in Annex 3.

## 13. What is the Audit and Standards Committee?

The Audit and Standards Committee is made up from seven councillors from the Constituent Authorities, two co-opted Members (for Audit purposes) and an Independent Person. The Committee is a key component of NECA's corporate governance arrangements and is responsible (amongst other things) for the promotion and maintenance of high standards of conduct by its elected and co-opted members. The Audit and Standards Committee can appoint when required a Sub-committee to conduct hearings and determine complaints of breaches of the Code of Conduct for Members. The full terms of reference for the committee and the Sub-committee can be found at Part 3.7 of the Constitution.

## 14. Who is the Independent Person?

The Independent Person is someone who applied for the post following advertisement of a vacancy for the role, and are appointed by the Leadership Board.

A person does not qualify as "independent", if they are (or at any time in the last 5 years have been) a Member, Co-opted Member or officer of NECA or any of the Constituent Authorities, or if they are a relative or close friend of such a Member, Co-opted Member or officer.

For this purpose, "relative" comprises –

- (a) a spouse or civil partner;
- (b) any person with whom the candidate is living as if they are a spouse or civil partner;
- (c) a grandparent;
- (d) any person who is a lineal descendent of a grandparent;
- (e) a parent, brother, sister or child of anyone in paragraphs (a) or (b);
- (f) any spouse or civil partner of anyone within paragraphs (c), (d) or (e); or
- (g) any person living with a person within paragraphs (c), (d) or (e) as if they were spouse or civil partner to that person.

The Independent Person is invited to attend meetings of the Committee and their views are sought and taken into consideration before the Committee takes any decision on

whether a Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

The Independent Person does not have voting rights on the Committee. Their role is an advisory one.

## **15. Revision of these arrangements**

The Audit and Standards Committee, on the advice of the Monitoring Officer, may depart from these arrangements where it is necessary to do so in order to secure the effective and fair consideration of any matter. The arrangements will also be subject to periodic review by the Leadership Board.

## Complaints against Members Assessment Criteria

The following criteria will be taken into account in deciding what action, if any, to take in relation to a complaint that a member has failed to comply with the requirements of the Code of Conduct for Members:

1. Has the complainant submitted enough information to satisfy the Monitoring Officer (or the Audit and Standards Committee if appropriate) that the complaint should be referred for investigation or other action?

If not:

The information provided is insufficient to make a decision. So unless, or until, further information is received, no further action will be taken on the complaint.

2. Is the complaint about someone who is no longer a member of NECA, but is a member of another authority? If so, should the complaint be referred to the Monitoring Officer of that other authority?

If yes:

The complaint will be referred to the Monitoring Officer of that other authority to consider.

3. Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?

If yes:

There may be nothing more to be gained by further action being taken.

4. Is the complaint about something which happened so long ago that there would be little benefit in taking action now?

If yes:

Further action may not be warranted.

5. Does the complaint appear not sufficiently serious to justify the cost or inconvenience of further action?

If yes:

Further action will not be warranted.

6. Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

If yes:

Further action will not normally be warranted.

7. Is the complaint anonymous?

If yes:

No action will normally be taken unless there are compelling reasons to suggest otherwise, e.g. if it includes documentary or photographic evidence indicating an exceptionally serious or significant matter.

**Annex 2****Procedure for Hearings****1. Introduction**

This Annex details the procedure to be adopted for the hearing of complaints by the Audit and Standards Committee (or Sub-committee) where an investigation has been completed.

The person(s) making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member.

The Investigating Officer means the Monitoring Officer or other person appointed by the Monitoring Officer to conduct a local investigation in relation to a matter referred to the Monitoring Officer for local investigation.

References to Monitoring Officer include any other person appointed by the Monitoring Officer to carry out the functions of the Monitoring Officer.

**2. Legal Advice to the Audit and Standards Committee**

Where the Monitoring Officer also takes the role of the Investigating Officer, he/she must arrange for a separate legal adviser for the Audit and Standards Committee in respect of the allegation.

**3. Notifying the Member and Complainant**

The Monitoring Officer shall send a copy of the Investigating Officer's final report to the Member, the Complainant and the Independent Persons.

The Monitoring Officer will ask for a written response from the Member within 14 days, stating whether or not s/he:

- disagrees with any of the findings of fact in the report, including the reasons for any disagreements;
- wants to be represented, at his/her own expense, at the hearing by a solicitor, barrister or any other person;
- wants to give evidence to the Audit and Standards Committee, either verbally or in writing;
- wants to call relevant witnesses to give evidence to the Audit and Standards Committee;
- wants any part of the hearing to be held in private; and
- wants any part of the report or other relevant documents to be withheld from the public

The Monitoring Officer will also inform the Member that if, at the meeting of the Audit and Standards Committee, s/he seeks to dispute any matter contained in the report, without having previously notified his/her intention to do so, the Audit and Standards Committee may either adjourn the meeting to enable the Investigating Officer to provide a response, or refuse to allow the disputed matter to be raised.

The Monitoring Officer will also seek the views of the Independent Person on the report and on any action the Independent Person feels should be taken in respect of it.

Upon receipt of the responses, the Monitoring Officer will discuss the responses with the Chair of the Audit and Standards Committee and will complete a Pre-hearing Summary which will include:

- a) The name of the 'home' authority
- b) The name of the Member.
- c) The name of the complainant (unless there are good reasons to keep his/her identity confidential).
- d) The Case reference number.
- e) The name of the Chair for the hearing.
- f) The name of the Investigating Officer.
- g) The name of the clerk of the hearing or other administrative officer.
- h) The date the pre-hearing summary was produced.
- i) The date, time and place of the hearing.
- j) A summary of the complaint.
- k) The relevant section or sections of the Code of Conduct.
- l) The findings of fact in the investigation report which are agreed and the findings of fact in the investigation report which are not agreed.
- m) Whether the Member or the Investigating Officer will attend or be represented.
- n) The names of any witnesses who will be asked to give evidence.
- o) An outline of the proposed procedure for the hearing.

The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chair of the Audit and Standards Committee, following advice from the legal adviser, may limit the number of witnesses, if he/she believes the number requested is unreasonable or that some witnesses will simply be repeating the evidence of earlier witnesses, or else will not provide evidence that will assist the Committee to reach its decision.

Nothing in this procedure shall limit the Chair of the Audit and Standards Committee from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Audit and Standards Committee to reach its decision.

#### **4. The Audit and Standards Committee**

The Audit and Standards Committee shall decide, on the balance of probability, whether the grounds of the complaint are upheld. It shall do so by considering the report and, where appropriate, written or oral representations made by the Member, and any additional relevant information from the Investigating Officer or witnesses.

Each Audit and Standards Committee member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast.

The meeting of the Audit and Standards Committee will be open to the public and press unless confidential information or exempt information under Schedule 12A of the Local Government Act 1972 is likely to be disclosed.

#### **5. Procedure at the Hearing**

The initial order of business at the meeting shall be as follows:

- declarations of interest;
- consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present;
- introductions;
- any representation from the Investigating Officer and/or the Member as to reasons why the Audit and Standards Committee should exclude the press and public and determination as to whether to exclude the press and public. Where the Audit and Standards Committee decides that it will not exclude press and public, the Monitoring Officer shall at this point provide copies of the agenda and reports to any members of the press and public who are present.

The purpose of the hearing is to test the robustness of the report, by examining the reasoning contained within the report and the quality of the evidence relied upon. This calls for an inquisitorial approach by the Audit and Standards Committee based on seeking information in order to identify potential flaws in the report and to clarify issues. The Audit and Standards Committee will control the procedure and evidence presented at the hearing, including the questioning of witnesses.

The Audit and Standards Committee may at any time seek legal advice from its legal adviser. Such advice will on all occasions be given in the presence of the Investigating Officer and the Member.

The procedure at the hearing will be as follows, subject to the Chair of the Committee being able to make changes as he or she thinks fit in order to ensure a fair and efficient meeting.

##### **a) Examination of report and written representations**

The Panel will consider the report together with any written response from the Member to the report. The Committee may require the Investigating Officer to answer questions put to him/her by members regarding the contents of the report.



The Committee must also take account of the views expressed by the Independent Persons in their response to the Monitoring Officer.

b) Oral evidence

If there is any disagreement as to the facts of the case, the Investigating Officer will be invited to make any necessary representations to support the relevant findings of fact in the report, calling supporting witnesses as agreed by the Chair.

Questions may be asked by the Committee at any point. The Member, will not be permitted to directly question the Investigating Officer or the witnesses he/she calls.

If the Member wishes to challenge any oral evidence being presented, then these questions shall be directed through the Chair.

The Member will then be invited to make any necessary representations to support their version of the facts, calling supporting witnesses as agreed by the Chair.

Questions may be asked by the Committee at any point. The Investigating Officer will not be permitted to directly question the Member or the witnesses he/she calls. If they wish to challenge any oral evidence being presented, then these questions must be directed through the Chair.

Where the Member seeks to dispute any matter in the report which he/she had not given notice of intention to dispute in his/her written statement in response, the Investigating Officer shall draw this to the attention of the Audit and Standards Committee. The Audit and Standards Committee may then decide:

- not to admit such dispute but to proceed to a decision;
- to admit the dispute, but to invite the Investigating Officer to respond
- to adjourn the meeting to enable the Investigating Officer to investigate and report on the dispute.

Where appropriate the Investigating Officer will make representations on behalf of the Complainant to the Audit and Standards Committee.

The Audit and Standards Committee may adjourn the hearing to require the Monitoring Officer to seek further information or undertake further investigation on any point specified by the Committee.

## 6. Decision by the Audit and Standards Committee

The Audit and Standards Committee will consider in private session which of the following findings to adopt:

- that there is no evidence of any failure to comply with the Code of Conduct;
- that the Member has failed to comply with the Code of Conduct, but that no action needs to be taken;
- that the Member has failed to comply with the Code of Conduct and that a sanction should be imposed.

The available sanctions are:

- a) Issue a formal censure;
- b) Refer the determination findings to the Leadership Board for information;
- c) Make publication of the determination findings by such means as thought fit;
- d) Request the Leadership Board to remove the member from being the Chair or Vice Chair of any Committee or Sub-committee
- e) Request the Leadership Board to remove them from any or all Committees or Sub-committees for a specified period;
- f) Request the Leadership Board to remove particular Thematic Lead responsibilities;
- g) Request the Leadership Board to remove the member for a specified time from all or specified outside appointments to which s/he has been appointed or nominated by the Leadership Board;
- h) Offer training to the member; or
- i) Exclude the member from the Combined Authority's offices or other premises or facilities, for a specified period and to the extent desirable and so as not to interfere with the democratic process, in particular the member's ability to carry out his or her role as an elected member.

In deciding what sanction (if any) to set, the Audit and Standards Committee will consider all relevant circumstances including any views expressed by the Independent Persons.

The Audit and Standards Committee will then resume the public session and the Chair will announce the decision and the reasons for that decision.

If the matter is a complicated one, where the complaint has a number of aspects, the Audit and Standards Committee can decide to consider the evidence and reach a finding on each aspect separately.

The Audit and Standards Committee will then consider in open session whether there are any recommendations which it wishes to make arising from consideration of the allegation.

## **7. Notice of findings**

The Monitoring Officer will make a short written decision available on the day of the hearing and a full written decision in draft will be prepared as soon as possible.

Within two weeks of the end of the hearing, the Monitoring Officer will circulate a full written decision, to the Member and the Complainant.

At the same time the Monitoring Officer shall arrange for a summary of the findings to be published as may be directed by the Audit and Standards Committee.

Where the Audit and Standards Committee determines that there has not been a breach of the Code of Conduct, the notice shall:

- state that the Audit and Standards Committee found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding and not be published if the Member so requests.

Where the Audit and Standards Committee determines that there has been a failure to comply with the Code of Conduct but no action is required, the notice shall:

- state that the Audit and Standards Committee found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure specify the details of the failure; and give reasons for the decision reached.

Where the Audit and Standards Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice shall:

- state that the Audit and Standards Committee found that the Member had failed to comply with the Code of Conduct;
- specify the details of the failure;
- give reasons for the decision reached; and
- specify the sanction imposed.

Copies of the agenda, reports and minutes of a hearing, as well as any background papers, apart from sections of documents relating to parts of the hearing that were held in private, will be available for public inspection for six years after the hearing.

## **8. Confidentiality and disclosure of information**

Where the Chair of the Audit and Standards Committee considers that the report and/or any of the written statements in response are likely to disclose any exempt information and in consequence that it is likely that the Audit and Standards Committee will, during consideration of these matters, not be open to the public, he/she shall instruct the legal adviser to not provide copies of these papers to the press or public or permit their inspection by the press or public in advance of the meeting.

The Hearing will be held in public except for those parts of its proceedings which involve exempt information and during the deliberations of the Audit and Standards Committee

## Review of Decisions

### 1. Initial Assessment Decisions

If a Complainant is aggrieved by a decision by the Monitoring Officer to not investigate a complaint then the Complainant may request the Monitoring Officer to reconsider their decision.

The Monitoring Officer will consult the Independent Person and the Chair of the Audit and Standards Committee, and take their views into account, before deciding whether to uphold or vary their original decision.

### 2. Findings of Audit and Standards Committee following a hearing

If a member is aggrieved by a finding of Audit and Standards Committee that they have failed to comply with the Code, or with the sanction imposed, they may request a review by an Independent Person from another local authority in accordance with the following procedure:

- The member must request a review, with their detailed reasons for seeking a review, within 5 working days of the publication of the decision notice otherwise the decision of the Audit and Standards Committee will become final.
- The request for a review must be in writing and must be submitted to the Monitoring Officer.

If a request for a review is received, the decision of the Audit and Standards Committee will be held in abeyance pending completion of the review process.

If a request for a review is received the decision of the Audit and Standards Committee (including all the papers considered by the Committee) will be referred to an Independent Person of a Constituent Authority not being the home authority of the Member. The Independent Person will review the case on the information provided and will provide a report to the Audit and Standards Committee. The report to the Audit and Standards Committee will provide any comments the Independent Person considers are appropriate and relevant taking into account the basis of the request for review from the Member.

Upon the receipt of the Independent Person's report, the Audit and Standards Committee will consider the Independent Person's comments; the reasons submitted for the review by the Member and will determine whether to confirm the decision of the Audit and Standards Committee, amend the decision or substitute it with an alternative decision; this could include concluding that no breach of the Code occurred.

No further right of appeal or review of the Audit and Standards Committee's decision within the Authority is available. However, if the Member or the Complainant considers that the Authority has failed to deal with the complaint properly, they may make a complaint to the Local Government Ombudsman.

## **Part 6.2 Code of Conduct for Officers**

### **1. Introduction**

The way that officers' conduct themselves influences the public's opinion of the Combined Authority. This code of conduct is intended to support officers in maintaining standards and to help to protect Officers from misunderstanding or criticism. This Code applies to all officers of the Durham, Gateshead, South Tyneside and Sunderland Combined Authority.

### **2. Summary**

Officers within the Combined Authority are expected to:

- a) treat others with respect;
- b) work with colleagues to achieve goals;
- c) maintain high standards of performance and behaviour;
- d) promote the values and aims of the council and implement relevant council policies and procedures; and
- e) seek help if for any reason they are unable to do their job

Any Officer, who is unsure about any aspect of the code, should check with their manager.

### **3. Treating others with respect**

Officers are expected to treat people with courtesy and consideration and respect an individual's right to privacy.

An Officer must not do anything that compromises or is likely to compromise the impartiality of a Member of the Combined Authority.

The Combined Authority Member/Officer Relations Protocol states that elected members should treat Officers with respect. Officers should treat councillors with respect and avoid over-familiarity, which may be unwelcome and embarrass others.

Officers should deal with customers and service users in a courteous, efficient and unbiased manner and follow the policies and procedures of the Combined Authority.

Officers should apply the same high standards to their dealings with colleagues and with the elected members. They should treat their colleagues with respect and according to their individual needs.

In order to deliver the plans and policies of NECA, it is expected that its Officers will work together and support each other.

### **4. Maintaining High Standards**

Residents of the Combined Area and those using services provided by NECA are entitled to expect the highest standard of conduct. Officers have responsibilities

to the community they serve. Officers will strive to ensure courteous, respectful, efficient and impartial service to all groups and individuals within that community. The following sections detail the standards expected in particular areas. If an allegation is made and it is proved that, for example, a gift has been given to an Officer, he/she will have to demonstrate that the reward has not been corruptly obtained.

An Officer must not bribe/attempt to bribe another individual, personally take a bribe or knowingly allow another to.

## **5. Gifts**

Public Officers are prohibited by law from accepting gifts or rewards, and must show neither favour nor disfavour to anyone in their official capacity. To safeguard themselves, Officers must not accept any gift or other benefit offered to them, their partner or a family member by any person or organisation who has, or wishes to have, dealings with the Combined Authority. Officers should refuse them with courtesy and tact (there may be exceptions, including gifts of token value. In these circumstances Officers should check with a manager. However, if in doubt, they should err on the side of caution). Officers should give a proper explanation and failure to do so might put them or their job at risk. In declining the offer of a gift, a possible way for Officers to avoid offending someone may be to suggest they write to the Head of Paid Service expressing their appreciation.

Although the law does not allow individuals to accept gifts, the Combined Authority is legally able to accept gifts, so another possible way of not offending someone who has offered a gift, which can be put into general use, may be for the Officer to explain that he/she is accepting it on behalf of NECA. This means the Officer will have to hand it over to their manager where it will become the property of NECA and could be used in one of NECA's establishments.

Officers should inform their manager if they are offered a gift as this will need to be recorded even if the gift / hospitality has not been accepted. Officers should refer to NECA's Gifts and Hospitality policy for more information.

## **6. Hospitality**

Officers should accept offers of hospitality (which must be authorised) only in the circumstances described below:

- a) There is a need to pass on information or represent the Combined Authority in the community.
- b) Attend social or sporting functions only when these are part of the life of the community or where the Combined Authority should be seen to be represented.
- c) It is acceptable for an Officer to accept hospitality through attendance at relevant conferences and courses if it is clear that the hospitality is business rather than personal, where the Head of Paid Service gives permission in advance and is satisfied that any procurement decisions are not compromised.

Be careful about timing as the host could be seeking to do business with the Combined Authority or to obtain a decision from it. Officers should check with

their manager first if they are offered hospitality, as this will need to be recorded, even if they have not accepted the hospitality or it is not authorised.

If Officers are involved in visits to inspect equipment etc., they should avoid jeopardising the integrity of subsequent purchasing decisions by ensuring that the Combined Authority meets the cost of such visits.

To assist in the application of the Code of Conduct fairly and consistently, the guidance below should be followed when considering the acceptance of gifts or hospitality:

- a) What is the context of the offer? Any offer must be impartial, for example, if an offer is received from an organisation currently bidding for a contract, or has recently won a contract, this could be interpreted as not impartial and should be declined.
- b) What is the value of the offer? High value offers would be questionable and should be declined.
- c) What reason is given by the Officer for accepting the offer? There must be a clear business reason for acceptance.
- d) Should the Officer attend the event but pay for the hospitality, for example, an Officer attending an event to promote networking opportunities.
- e) Could the offer of a gift be accepted on behalf of the Combined Authority rather than by the individual?
- f) Is there any doubt about the appropriateness of accepting the gift or hospitality? If there is any doubt as to the integrity or honesty, the manager should refuse permission to accept.

## **7. Sponsorship**

The rules regarding the acceptance of gifts or hospitality also apply to an outside organisation that wishes to sponsor an activity organised by the Combined Authority.

If the Combined Authority wishes to sponsor an event or service, Officers, and their partners, spouses or relatives must not benefit from it in a direct way. If an Officer has an interest in an event or service that the Combined Authority wishes to sponsor, he/she should inform their manager. This should also be done even if the sponsorship has not been accepted.

Where the Combined Authority, through sponsorship, grant aid, financial or other means, gives support in the community, Officers must ensure that impartial advice is given and there is no conflict of interest involved.

## **8. Use of Resources**

The Combined Authority is responsible for the safekeeping of public buildings and the control of public money. Officers should be open as far as possible, and be ready to answer for their actions. Officers should use NECA resources for authorised, official purposes only.

Officers should strive to ensure value for money to the local community and avoid any legal challenge to the council by using any public money in their care responsibly and lawfully.

## **9. Additional and Outside Employment**

The Combined Authority has to be satisfied that conflicts of interest do not arise with an Officer's additional / outside employment. For this reason, Officers must inform their manager that they intend to seek any outside employment (paid or unpaid, and / or where expenses may be offered), which may have a conflict of interest with their role in the Combined Authority. If Officers are unsure if their additional / outside employment does cause a conflict of interest they should seek advice from their manager.

Officers may be required to refund some or all of their income/expenses from their other activity if it is a function of their employment with the Combined Authority.

The Combined Authority will not unreasonably prevent Officers from carrying out other employment. If a manager refuses an Officer's request they will explain their reasons for doing so.

Officers should not take outside employment if it conflicts with or overlaps with their official duties.

Officers should be aware of the terms of their contract of employment.

## **10. Personal Interests**

Officers must not make official decisions about matters in which they have a personal involvement.

Officers should declare if:

- a) they have any personal interests, whether financial or not, which could overlap or bring about conflict with the Authority's work; or
- b) they belong to any society or organisation which is not open to the public without formal membership and which has secrecy about rules, membership or conduct, with a commitment of allegiance to the organisation.

The purpose of this declaration is to protect Officers from allegations of bias, interest or favouritism.

## **11. Relationships with suppliers or contractors**

In circumstances where an Officer has a financial interest in a contract to which the Combined Authority is a party, or which is proposed to be entered into by NECA or any of its joint committees, committees, or sub-committees or if an Officer has any relationships of a personal or a business nature with external contractors or service suppliers, or possible contractors or suppliers, he/she must declare this.



## **12. Communicating Information**

Officers must not use information gained at work for their personal gain or pass it to others who do not have a legitimate work involvement.

Officers should be aware of what information they can and cannot release. If an Officer needs guidance on this, they should speak to their manager.

Officers should only reveal information regarding other Officers if they have obtained the approval of the person concerned first, or the law permits the information to be disclosed.

When completing and responding to reference enquiries Officers should give an honest and factual response. Officers should also be aware that failure to comply with this obligation could result in a criminal offence.

## **13. Copyright and Intellectual Property**

If an Officer's employment entails them creating items of intellectual property, such as literary, musical and dramatic works, works of art, original drawings or design, performances and broadcasts (including material placed on the Internet) they belong to the Authority, unless the Authority specifically agrees otherwise. Officers should also ensure that nothing they create in the course of their employment infringes copyright, beyond that which would be accepted as "fair dealing" i.e. normally copies of parts of a work. If an Officer is in doubt he/she should discuss the matter with their manager who may seek legal advice if appropriate.

## **14. Data Protection**

Officers must observe the requirements of the data protection legislation and follow the Authority's Information Governance and Data Protection policies. Officers may disclose personal data about an individual, from which he or she can be identified and which is held on computer equipment or manual records, only to those who are registered as receivers of such information (in accordance with the policies).

## **15. Giving Fair Advice**

When asked, Officers should give fair advice without bias.

Officers should serve all Members in the same manner and respect their rights.

If an Officer is required to advise a meeting of a political group of Elected Members they should first seek the authority of the Head of Paid Service to attend the meeting. The Officer must remain politically neutral by ensuring that he/she does not show bias towards any particular group. Officers are advised to keep a summary of the key points of their advice. If he/she offers a briefing to one political group he/she should offer one to the other groups on the same topic, within an appropriate timescale.

**16. Political Neutrality**

Officers must in the discharge of their duties act at all times in a politically neutral way. In doing so they must not favour or disadvantage any political group or politician in how they undertake their duties.

**17. Seeking help**

If anything prevents an Officer from doing their job with the Authority he/she should inform their one-up manager.

**18. Breaches of the Code**

Breaches of this code of conduct may lead to action being taken under the Combined Authority's Discipline Procedure.

## Part 6.3 Member/Officer Relations Protocol

This section provides general guidance for Members and Officers in their relations with one another. It reflects the basic principles underlying the respective rules of conduct that apply to Members and Officers. This protocol cannot cover every eventuality nor is it prescriptive. Its intention is to offer guidance on some of the issues that commonly arise.

Members and Officers are all public servants who depend on each other in carrying out their work. Members are responsible to the people of the Combined Area who they serve for as long as their term of office lasts, while Officers are responsible to the Authority. Their job is to give impartial advice to the Leadership Board and to NECA's joint committees and committees as well as individual Members, and to carry out NECA's work. The responsibility for decision making in relation to NECA's work is set out in Part 3 of the Constitution.

Mutual respect between Members and Officers is essential to good local government. Mutual respect and courtesy should prevail in all meetings and contacts (both formal and informal) between Members and Officers. To be most effective Members and Officers will work closely and cohesively together. However, close personal familiarity between individual Members and Officers can damage this important relationship.

The relationship has to operate without any risk of compromising the ultimate responsibilities of Officers to the Authority as a whole, and with due regard to such technical, financial, professional and legal advice that Officers can legitimately provide to Members.

### 1. Roles of Members

Members have many different roles:

- a) Members are the policy makers and carry out a number of strategic and corporate functions collectively approving the Authority's policy framework, strategic plans and budget.
- b) Developing and reviewing policy and strategy.
- c) Monitoring and reviewing policy implementation and service quality.
- d) Members express political values and support the policies of the political party or group to which they belong (if any).
- e) Representing their communities and bringing their views into the Authority's decision making processes, thus becoming advocates for their communities.
- f) Being involved in partnerships with other organisations as community leaders.
- g) Representing the Authority on other bodies and acting as ambassadors for the Combined Authority.

- h) Members may have roles relating to their position as members of the Leadership Board or Overview and Scrutiny Committee or other committees and sub committees of NECA.

## **2. Roles of Officers**

Officers' main roles are as follows:

- a) Providing advice to the Leadership Board, to NECA's joint committees and committees and Members to enable them to fulfil their roles.
- b) Managing and providing services for which they are responsible.
- c) Being accountable for ensuring those services are efficient and effective.
- d) Advising the Leadership Board, NECA's joint committees and committees and Members in respect of those services.
- e) Initiating proposals for policy development.
- f) Implementing the Authority's policies.
- g) Ensuring the Authority acts lawfully.
- h) Representing the Authority on external organisations.

## **3. Respect and Courtesy**

An essential ingredient to the Authority's business being conducted effectively is ensuring mutual respect, trust, courtesy and even-handedness in all meetings and contacts between Officers and Members. This plays a very important part in the Authority's reputation and how it is seen by the public.

## **4. The Combined Authority's Reputation**

Members and Officers both have an important role in engendering a good reputation for the Combined Authority. In particular they should:

- a) protect and promote the legitimacy of democratic local government;
- b) promote a positive relationship between Members and Officers and be careful not to undermine it;
- c) avoid criticism of the Combined Authority when formally representing it; and
- d) avoid personal criticism of other Members and Officers.

## **5. Undue pressure**

In any dealings between Members and Officers neither should try to take advantage of their position.

In their dealings with Officers, Members should be aware that it is easy for Officers to be overawed and feel at a disadvantage. This can be even more so where Members hold leading roles. However it is also possible for Members, particularly newer Members to be overawed by Officers. Members and Officers must always be mutually respectful regardless of their role within the Authority.

Members must not pressurise any Officer to do things s/he has no power to do, or to work outside of normal duties or hours.

Apart from decisions that are clearly illegal, Officers should usually carry out decisions of NECA. However, instructions should never be given to Officers to act in a way that is unlawful as ultimately this could damage the Authority's interests. Officers have a duty to express their reservations in this sort of situation, and the Monitoring Officer or Chief Finance Officer may get involved as they have a statutory duty to intervene where illegality or maladministration is possible.

To assist Members in decision making they should be informed of all legal and financial considerations, and be warned of the consequences even if it is unpopular. If a Member has a concern that an Officer is not carrying out a particular NECA decision, the Member concerned should draw this to the attention of the Head of Paid Service.

In similar terms, Officers should not use undue influence to pressure an individual Member to make a decision in his/her favour, nor raise personal matters to do with their job, or make claims or allegations about other Officers to Members.

The Authority has procedures for consultation, grievance and discipline and there is a right to report actions of concern under the Authority's Whistleblowing Policy.

As mentioned above, the Authority has adopted separate Codes of Conduct for Members and Officers. One shared aim of the codes is to improve and maintain the Authority's reputation and so they demand very high standards of conduct.

Under the Members' Code of Conduct Members must promote equality, treat others with respect and not do anything that compromises the unbiased nature of those who work for the Authority. In particular, Members should never act in a way which an independent observer might consider to be bullying, harassment or trying to get special treatment.

## **6. Personal and Business Relationships**

Members and Officers must work together closely to effectively undertake the Authority's work. This inevitably leads to a degree of familiarity. However, close personal relationships between individual Members and Officers can be damaging to mutual respect.

It is important not to allow any personal or business connection or relationship with any other Members or Officer to affect the performance of official responsibilities, taking action or making decisions. It is also important in these circumstances to be wary of passing confidential information to anyone who should not have access to it.

Members and Officers should always consider how any relationship or connection could be interpreted by anyone outside the Authority, or by any other Member or Officer, and avoid creating any impression of unfairness or favouritism.

Members should take account of any relationship or connection they have with any other Member or Officer when considering whether or not they need to register or declare a personal interest. It would usually be inappropriate for a Member to have special responsibilities in an area of activity in which someone with whom s/he has a close personal or business relationship is a senior officer. If this situation arises, the Member should take appropriate action to avoid a potential conflict of interest.

## **7. Officers' Advice to Members**

Members are entitled to ask the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer for such advice and information as they reasonably need to help them in discharging their role as a Member of the Council. This can range from general information about some aspect of the Authority's activities, to a request for specific information on behalf of a constituent.

It is important for the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer to keep Members informed both about the major issues affecting the Authority and about issues affecting the areas s/he represents. Members shall be kept informed about proposals affecting their Constituent Areas and be invited to Authority initiated events within or affecting their Constituent Areas.

Advice or information sought by Members should be given in a timely manner. It should be provided by the relevant service provided it is within the service's resources. Resources are finite and Members should act reasonably in the number and content of the requests they make.

Officers serve the whole Authority and must be politically neutral in their work. In providing advice and support to NECA and when implementing its lawful decisions, it must not be assumed that an Officer is supportive of a particular policy or view or is being other than politically neutral in implementing such decisions. Political neutrality in carrying out their work ensures that Officers are able to act impartially in the best interests of the Authority. Special legal rules exist which limit the political activities of senior Officers. All senior posts are 'politically restricted', which means that the Officers in those posts are not allowed to speak or write in such a way that could affect public support for a political party. However they can speak or write in a way which is necessary in order to perform their duties properly.

If Members have any concerns that an Officer is not acting in a politically neutral manner, they should refer their concerns to the Head of Paid Service. Allegations that an Officer has not acted in a politically neutral way are serious and could be damaging to his/her reputation.

Officers can advise on matters relating to the Authority's business. However, the Officer may need to tell his or her manager about the discussions, if that is necessary to enable a matter to be properly dealt with.

Officers can usually give information confidentially unless doing so would not be in the Authority's best interests (for example, if it went against their obligation to protect the Authority's legal or financial position). Any information a Member receives confidentially in one capacity (for example, as a Member of the Leadership Board) cannot be used when acting in a different capacity (for example, when representing his/her ward). Confidential information can only be given to those entitled to see it. It is best to check with the Officer giving the information whether it is appropriate to pass it on to others.

Members should make sure that when they are getting help and advice from Officers they only ask for information to which they are properly entitled. There is more detail about the information to which Members are entitled below. Members' rights to inspect documents are contained partly in legislation and partly at common law.

If a Member asks for information or advice relating to the work of a particular service, and it appears likely or possible that the issue could be raised or a question asked at a subsequent meeting on the basis of that information, the relevant Chair of the Committee should be advised about the information provided.

Officers are required to serve the Authority as a whole. They are responsible to the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer, and not to individual Members whatever office they may hold.

## **8. Politically Restricted Posts**

There are a number of rules which apply to Officers who occupy politically restricted posts under the Local Government and Housing Act 1989. In summary such Officers are prevented from:

- a) being a Member of Parliament, a Member of the European Parliament or a local authority member;
- b) acting as an election agent or sub agent for a candidate for any of those bodies;
- c) being an officer for a political party or branch, or a committee if that role is likely to involve participation in the management of the party or branch, or to act on its behalf in dealings with other persons;
- d) canvassing on behalf of a political party or an election candidate;
- e) speaking in public in support of a political party; and
- f) publishing written or artistic works affecting support for a political party.

## **9. Member Briefings and Political Group Briefings**

General matters of the Authority's policy, development, and performance as well as specific policy issues can be the subject of all party briefings.

There is statutory recognition of political groups. It is common practice for political groups to give preliminary consideration to matters of Authority business before the matters are considered by the relevant decision making forum.

Senior Officers may be asked to attend political group meetings called to address Authority business. All requests for briefings of political groups should be directed to the Head of Paid Service. If attendance is requested the Chief Executive's agreement must be obtained and s/he will determine the appropriate Officer to attend and all groups must be offered the same facilities if they so request.

Where officers do attend political group meetings certain matters need to be understood by Members and Officers about this process:

- a) officer support in these circumstances will be to provide information and advice and to answer questions about matters of Authority business;
- b) these meetings are not decision making meetings and conclusions reached at them are not the Authority's decisions;
- c) where Officers provide information and advice at these meetings this is not a substitute for providing all necessary information and advice to the decision making forum;
- d) if the meeting includes non-Members of the Authority, Officers may not be able to provide the information and advice they would to a meeting of Members to prevent disclosure of confidential information to non-Members; and
- e) officers should not be asked for, or give advice or comments on political business, and should not expect to be present at meetings or parts of meetings when matters of political business are to be discussed.

The requirements as to declaring interests apply to political group meetings. The meeting should keep to the requirements of declaring interests, including the requirement to record any declared interests in the record of the meeting.

Officers should respect the confidentiality of any discussions at which they are present with Members in this context. They may however have to brief the Head of Paid Service on the nature of issues raised at the meeting.

It is accepted that a Member of one political group will not have a need to know and has no right to inspect a document, which is confidential to another political group.

When responding to questions at a political group meeting Officers will need to bear in mind the rules as to access to information, and where appropriate the need for Members to show that they have a 'need to know'.

It is recognised that political groups may have in attendance party representatives who are not elected Members of the Authority. At his/her discretion, the Head of Paid Service may permit an Officer to give a political group briefing when such representatives are likely to be present. The Head of Paid Service's decision is final.



In any event, if such representatives are present, they:

1. Must comply with the requirements relating to the declaration of any interests and take any necessary consequent action.
2. Must not receive any documentation that contains confidential or exempt information
3. Must not be present when any confidential or exempt information is considered.

Members should be aware that where political group meetings are arranged to deal with non-Authority business, particularly matters of a purely party political nature, and which may be attended by non-Members, the Head of Paid Service may consider the meeting to be a political meeting and therefore provision of the Authority's resources and attendance by Officers to be inappropriate.

It must not be assumed that an officer is supportive of a particular policy or view considered at a political group meeting simply because he/she has attended or provided information to the meeting.

Officers will respect the confidentiality of any political group discussions at which they are present and, unless requested to do so by that political group, will not relay the content of such discussions to another political group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.

In their dealings with political groups, officers must treat each group in a fair and even-handed manner.

Officers should not attend nor be asked to attend political group meetings at any pre-election period (the time between the election being announced and election day).

At any other meeting arranged by a political group or individual Member, Officers can only attend to provide information which is publicly available. Whether an Officer can attend will be a decision for the Head of Paid Service. If an Officer who is invited to attend a public meeting is concerned that the meeting is or is becoming a political meeting the Officer will withdraw from the meeting as soon as reasonably practicable to ensure that the political neutrality of the Officer is seen to be maintained.

It is acknowledged that some Authority staff may receive and handle messages for members on topics unrelated to the Authority. Whilst these will often concern diary management, care should be taken to avoid the Authority's resources being used for private or party political purposes.

## **10. Head of Paid Service**

The Head of Paid Service's responsibility is to the Authority as a whole and not to any political group.

The Head of Paid Service is expected to work closely with the Leadership Board and its Chair and Vice Chair. This is subject to maintaining his/her position as politically neutral.

Everyone should respect the political neutrality of the Head of Paid Service. S/he should not be asked to play any role or undertake any task which is likely to prejudice that neutrality or make it difficult for him/her to continue to serve successive administrations of whatever political persuasion.

The Head of Paid Service is able to give advice on a confidential basis about procedural matters to any Member. All Members of the Authority have access to the Head of Paid Service.

The following principles govern the relationship between the Head of Paid Service and political groups:

- a) It is proper for the Head of Paid Service to develop a working relationship with all political groups on the Authority.
- b) The Head of Paid Service is free to provide information and answer procedural inquiries to Members of any group. S/he will not advise as to the policies which any group should pursue.
- c) The Head of Paid Service will draw the attention of the Leadership Board to any case where consideration should, in his opinion, be given to affording information, consultation, or representation to other committees.

When the Head of Paid Service attends a meeting of any political group, s/he will ensure that the part s/he plays in the proceedings is consistent with his/her political neutrality.

The foregoing principles apply similarly to the Monitoring Officer and Chief Finance Officer, who shall act under the general direction, and after seeking the advice of, the Head of Paid Service.

## **11. Correspondence**

When a Member sends any letter, fax or e-mail to an Officer, if s/he is also sending a copy to another person s/he should make this clear to the Officer. Similarly if an Officer sends information to a Member and copies that information to any other person, s/he should make that clear to the Member concerned.

Communication between Members and Officers will normally be confidential, and should not be disclosed to third parties unless there are overriding obligations to disclose it to protect the Authority's interests.

A Member may however disclose information to a constituent if the information deals with a ward matter which the constituent has raised, provided the information is not confidential and that disclosure will not harm the interests of the Authority or another party. As a general rule personal information about a third party will be confidential. It is best to seek advice if there is any doubt as to whether information can be disclosed. Where the Officer providing the information

considers that the whole or any part of the information should be treated as confidential then this will be indicated and Members will respect that position.

Other than in the case of information sent by Members in their capacity as ward councillors, official letters sent on behalf of the Authority should normally be sent out in the name of the appropriate Officer rather than in the name of a Member. In certain exceptional circumstances (for example, when making representations to a Government Minister or writing to the leader of another local authority) it may be appropriate for a letter to be issued in the name of the Chair of the Leadership Board.

Members should not send letters which appear to create obligations, accept or deny any liability, or give instructions on behalf of the Authority. An Officer must always send any such letter.

## **12. Members' access to documents and information**

Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Members.

## **13. Interpretation, complaints and allegations of breaches**

This part of the protocol should be read in conjunction with the Authority's "whistleblowing" policy which may be found at Part 6.5 of this Constitution.

Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.

A Member who is unhappy about the actions taken by, or conduct of, an officer should endeavour wherever possible to:

- avoid personal attacks on, or abuse of, the officer.
- ensure that any criticism is well founded and constructive.
- avoid making criticism in public.
- take up the concern with the officer privately.

If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the officer's manager or the relevant senior officer.

A serious breach of this protocol by an officer may lead to an investigation under the Authority's disciplinary procedure. There are special rules that apply to the Authority's Head of Paid Service, the Chief Finance Officer and the Monitoring Officer and these can be found in the Officer Employment Rules of Procedure at Part 4.5 of the Constitution.

An Officer who believes a Member may have acted other than in accordance with this protocol should raise his/her concern with the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant political group. More serious complaints may involve alleged breaches of

the members' code of conduct, and may be referred to the Authority's Audit and Standards Committee.

## Part 6.4 Anti-Fraud and Corruption Policy

### 1. The Combined Authority's Commitment

The Combined Authority is committed to sound corporate governance and supports the Seven Principles of Public Life for the conduct of its Members and Officers, namely:

- Selflessness;
- Integrity;
- Objectivity;
- Accountability;
- Openness;
- Honesty; and
- Leadership.

Fraud and corruption cheats the local taxpayers who have the right to expect Members and Officers to perform their functions in an honest and proper manner.

The Combined Authority seeks in the first instance to prevent fraud and corruption and will take all action necessary to identify any occurrences if suspected. If any such instances are detected they will be investigated in a correct and agreed manner. The Combined Authority pledges to pursue the recovery of losses and the suitable punishment of those responsible.

### 2. Prevention

Prevention will be achieved through:

- staffing policies
- making members aware of their responsibilities
- internal control systems and
- liaison with outside agencies

#### 2.1. Officers

As a public employer, the Combined Authority is obliged to maintain, and is entitled to expect, high standards of conduct among its officers to ensure that public confidence in their integrity and impartiality is not undermined. The public is entitled to demand conduct of the highest standard and that Officers work honestly and without bias in order to achieve the Authority's objectives.

The Combined Authority recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at recruitment stage to establish, as far as possible, the propriety and integrity of potential staff. In this regard temporary and contract staff are treated in the same manner as permanent officers.

Managers should ensure that procedures laid down by the Authority's Personnel Officer in the Recruitment and Selection Guidelines and Code of Practice are followed and, in particular, that written references are obtained before employment offers are confirmed.

Officers are expected to follow the Authority's Code of Conduct which includes regulations regarding the registration of interests, gifts and hospitality. Officers are reminded that they must operate within Section 117 of the Local Government Act 1972 regarding the disclosure of pecuniary interests in contracts relating to the Combined Authority, or the non-acceptance of any fees or rewards whatsoever other than their proper remuneration.

The Combined Authority recognises that the continuing success of its anti-fraud and corruption strategy and its general credibility will depend largely on the effectiveness of its training programmes and the responsiveness of Officers throughout the organisation. To facilitate this, the Authority supports the concept of induction and continuing training and Officer appraisal, particularly for Officers involved in internal control systems, to ensure that their responsibilities and duties in this respect are regularly highlighted and reinforced. The Authority has in place a Disciplinary Procedure for all Officers and the possibility of disciplinary action against Officers who ignore such training and guidance is clear.

## 2.2. Members

Members are expected to operate honestly and without bias. Their conduct is governed by:

- The Code of Conduct for Members
- The Constitution

These matters include rules on the declaration and registration of potential areas of conflict between Members' duties and responsibilities on behalf of the Combined Authority, and any other areas of their personal or professional lives. These will be regularly drawn to the attention of Members.

## 2.3. Internal Control System

The internal control system comprises the whole network of financial, operational and managerial systems established within the Constituent Authorities to ensure that objectives of the Combined Authority are achieved in the most economical and efficient manner.

The Financial Regulations of the Combined Authority (see Part 5) provide the framework for financial control. Under Financial Regulations Managers are required to ensure that:

- Arrangements, guidelines and procedures for the proper administration of the financial affairs of the Combined Authority are operated in accordance with Financial Regulations;
- The Chief Finance Officer is informed where there has been a failure to comply with Financial Regulations or where amendment or revision of a regulation is considered necessary; and
- The Chief Finance Officer is informed as soon as possible of any matters involving, or suspected of involving, irregularity in the use of the Combined Authority resources or assets.

The Internal Audit service of the Constituent Authority identified by the Head of Paid Service for this purpose independently monitors the existence, appropriateness and effectiveness of internal controls.

#### 2.4. Liaison

Arrangements are in place now and will continue to develop which encourage the exchange of information between the Combined Authority and other agencies on national and local fraud and corruption activity.

The Authority acknowledges that in order to prevent fraudsters using multiple identities and addresses, it cannot afford to work in isolation and must liaise with other organisations. To this end the Authority has a number of external contacts that include:

- Northumbria and Durham Police
- Tyne and Wear District Treasurers
- Universities and Colleges
- UK Border Agency
- DWP
- Jobcentre Plus
- Federation Against Software Theft (F.A.S.T.)

All liaisons are subject to adherence to Data Protection Legislation and regard to the confidentiality of information.

#### 2.5. Partners

Arrangements are in place within partner organisations such as Nexus and TT2 to identify, investigate and appropriately report incidents of fraud and corruption which may occur within those organisations. Where fraud is identified which has resulted from a significant weakness in controls in the organisation and this would impact on the assurance the Combined Authority could place on governance arrangements, this will be reported to the Chief Finance Officer. The Chief Finance Officer will subsequently report details of the incident and any potential impacts for the Combined Authority to the Audit and Standards Committee.

#### 2.6. Strategy

The Audit and Strategic Risk service of the Constituent Authority identified by the Head of Paid Service for this purpose will implement the policy on the Combined Authority's behalf.

### 3. Detection and Investigation

Where fraud and corruption still happen, systems should assist in revealing the occurrences and people should be encouraged to do likewise. They must then be investigated in a fair and impartial manner.

### 3.1. Detection

The array of preventative systems, particularly internal control systems and audit, within the Authority generally should be sufficient in themselves to deter fraud, but they have also been designed to provide indications of any fraudulent activity.

The Combined Authority's officers are an important element in its stance on fraud and corruption and they are positively encouraged to raise any concerns that they may have on any issues associated with the Authority's activities. They can do this in the knowledge that such concerns will be treated in confidence and properly investigated. If necessary, a route other than a line manager may be used to raise such concerns. Examples of possible routes are:

- Internal Audit Service
- Chief Finance Officer
- Monitoring Officer

Members of the public are also encouraged to report concerns through any of the above routes or, if appropriate, through the Combined Authority's complaints procedure.

If Officers feel unable to raise their concerns through any of the internal routes, then they may wish to raise them through Public Concern at Work (telephone 020 7404 6609), a registered charity whose services are free and strictly confidential. See also Part 6.5 Whistleblowing Policy.

The Code of Conduct requires Officers of the Combined Authority to report any illegality or impropriety to their manager or supervisor. Financial Regulations require the Chief Finance Officer to investigate matters that involve, or may involve, financial irregularity.

### 3.2. Investigation

Depending on the nature and the anticipated extent of the allegations, Internal Audit will normally work closely with management and other agencies, such as the police, to ensure that all allegations are properly investigated and reported upon and where appropriate, maximum recoveries are made for the Authority. The follow up of any allegation of fraud and corruption received will be through agreed procedures which ensure that:

- matters are dealt with promptly;
- all evidence is recorded;
- evidence is sound and adequately supported;
- all evidence is held securely;
- where appropriate, the police and the Authority's Insurance Officer are notified;
- the Authority's Disciplinary Procedures are implemented; and
- the rules of natural justice are incorporated.

The procedures and reporting lines are an integral part of the Combined Authority's anti-fraud culture that ensures:



- consistent treatment of information about fraud and corruption;
- proper investigation by an independent and experienced audit team;
- the proper implementation of a fraud investigation plan;
- restitution or compensation; and
- the optimum protection of the Authority's interests.

Where financial impropriety is discovered, referral to the police is a matter for the Chief Finance Officer, in consultation with the relevant officers of the Authority and the Chair of NECA.

In deciding whether to recommend referral the following factors are taken into account:

- the amount of the loss and duration of the offence;
- the suspect's physical and mental condition;
- voluntary disclosure and arrangement for restitution; and
- the strength of the evidence; and
- reputational damage

The Combined Authority's Disciplinary Procedures will be used as appropriate irrespective of police involvement.

There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse, such as raising unfounded malicious allegations may be dealt with as a disciplinary matter and may leave the complainant open to an action for defamation.

The External Auditor also has powers to investigate independently fraud and corruption and the Combined Authority can make use of these services.

#### **4. Summary**

The Authority has a clear commitment to minimising the possibility of corruption and theft or other misuse of public money and assets. It pledges to prevent fraud and corruption but to take all action necessary to identify fraud and corruption if suspected, and pursue the recovery of losses and the punishment of those responsible.

The Authority's Officers and Members are expected to have the highest standards of conduct and to be vigilant in combating fraud and corruption in all its guises.

The Authority has implemented a clear network of systems and procedures to assist in the fight against fraud and corruption. These arrangements will keep pace with any future developments, in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation or related responsibilities.

## Part 6.5 Whistleblowing Policy and Procedure

### 1. Introduction

NECA is committed to the highest possible standards of openness, probity and accountability and will not tolerate malpractice or wrongdoing.

NECA is therefore committed to a policy for confidential reporting of concerns, “whistleblowing”, which seeks to protect individuals who make certain disclosures with regard to any instance of malpractice or wrongdoing and to investigate them in the public interest.

Whistleblowing is when a member of staff raises concerns about the activities of the organisation they work for which are ethically or legally questionable.

The aims of the policy are to:

- Provide for a culture of zero tolerance toward fraud and corruption.
- Encourage officers and others with serious concerns about any aspect of NECA’s work to feel confident to come forward and voice those concerns.
- Provide ways for officers to raise concerns at an early stage and in the right way and enable them to get feedback on any action taken.
- Ensure that officers know what to do if they are not satisfied with actions taken.
- Provide re-assurance that officers who raise concerns in good faith can do so without fear of reprisals or victimisation.

This policy covers any wrongdoing relating to unlawful conduct, financial malpractice or dangerous working environments.

It is available for use by all Officers of NECA and Officers of Constituent Authorities providing services to NECA, its committees, sub-committees and joint committees.

It is not to be used where other more appropriate procedures are available. There are existing procedures which enable officers to lodge a grievance relating to their conditions of employment, raise matters of harassment or to make a complaint. This policy covers concerns that fall outside the scope of these existing procedures.

NECA will seek to ensure that its stance on whistleblowing is widely publicised and that officers have access to appropriate guidance.

### 2. Whistleblowing Procedures for Officers

Officers are often the first to realise that there may be something seriously wrong within an authority. Normally Officers would be expected to raise any concerns initially with their line manager. However they may feel that expressing their concerns would be disloyal to their colleagues or to NECA or may also fear harassment or victimisation. It may be easier to ignore these concerns than report what may just be a suspicion of malpractice.

Whistleblowing is the process for raising a concern about suspected wrongdoing, especially in circumstances where the whistleblower feels forced to raise that concern outside the normal management reporting line. For instance, the whistleblower may be

concerned about the actions of their own line management, or about the failure of their line management to act over suspected wrongdoing on the part of others.

The Whistleblowing policy encourages and enables officers and others with serious concerns about any aspect of NECA's work or those engaged in work for NECA to come forward and voice those concerns. It recognises that most cases will need to proceed on a confidential basis. At the same time, the provisions of the Public Interest Disclosure Act 1998 (PIDA) provide protection from harassment and victimisation for officers who raise concerns in good faith.

### 3. Aims and scope of this Policy

This policy aims to:

- Make you feel confident to raise concerns and to question and act upon concerns about practice.
- Give you avenues to raise your concerns and receive feedback on any action taken.
- Guarantees that you receive a response to your concerns and ensures that you are aware of the process to follow if you are not satisfied.
- Reassure you that you will be protected from possible reprisals or victimisation.

There are existing procedures in place if you have a grievance relating to your own employment or consider that you are being harassed due to your race or sex or age, or if you are concerned about health and safety risks, including risks to the public as well as to other Officers. Indeed you are under a legal obligation to report to your supervisor or manager any work situation which you consider to represent:

- a danger to the health and safety of yourself, fellow Officers or members of the public; or
- a shortcoming in the Authority's arrangements for health and safety.

If you are reluctant to raise such health and safety concerns with your supervisor or manager, or if you have raised them and are concerned about the response, then arrangements exist for you to raise the health and safety concerns with the Head of Paid Service and/or with Health and Safety Representatives from the relevant trade union.

This policy is intended to cover concerns that fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law;
- disclosures related to miscarriages of justice;
- health and safety risks, including risks to the public as well as other Officers;
- damage to the environment;
- the unauthorised use of public funds;
- fraud and corruption; sexual or physical abuse of clients; any attempt to prevent disclosure of any of the above, or
- other conduct which gives you cause for concern.

Thus any serious concerns that you have about any aspect of service provision or the conduct of your staff or members of the Combined Authority or others acting on behalf of the Combined Authority can be reported under this policy. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Combined Authority subscribes to; or
- is against the Combined Authority's Standing Orders and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

This policy supplements and does not replace the corporate complaints procedure, or the grievance procedure and other procedures established to deal with aspects of harassment i.e. sexual, racial and age harassment, and with health and safety concerns.

#### **4. Harassment or Victimisation**

The Combined Authority is committed to good practice and high standards and aims to be supportive of its Officers.

The Combined Authority recognises that the decision to report a concern can be a difficult one to make. However uncovering malpractice will be doing a service to the Authority. You will be doing your duty to your employer and those for whom you are providing a service.

The Combined Authority will fulfil its responsibility to ensure that you are NOT harassed, victimised or otherwise disadvantaged when you raise a concern. Any allegation concerning an Officer who engages in any form of victimisation or harassment against you as a result of your raising a concern will be the subject of a thorough investigation and disciplinary action will be taken if the case is proved.

Allegations by an Officer who is the subject of disciplinary investigations or proceedings concerning the conduct of those proceedings can only be raised through the disciplinary appeals procedures.

#### **5. Confidentiality**

All concerns will be treated in confidence wherever possible and every effort will be made to preserve your anonymity if you so wish. You may need however to come forward as a witness, but if you wish to be supported by your trade union or another representative of your choice then this would be available to you.

#### **6. Anonymous allegations**

This policy encourages you to put your name to your allegation whenever possible. Concerns expressed anonymously are much less powerful but they will be considered so far as is possible or practicable by the Combined Authority. Your trade union can act for you in this.

## **7. Untrue allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If however, you make an allegation maliciously or for personal gain, disciplinary action may be taken against you.

## **8. How to raise a concern**

If you are an officer of the Combined Authority, as a first step, you should raise concerns with your immediate manager or their manager. This depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice, for example if you believe that your immediate manager or their managers are involved, you should approach the Monitoring Officer.

The manager receiving notification of concerns under this policy will inform the Monitoring Officer that a confidential report has been received and provide a copy. If the concern relates to financial irregularities or failures of financial controls the manager receiving the report must immediately notify the Chief Finance Officer.

Concerns may be raised verbally or in writing. Reports should be sent to your immediate manager or their superior or to the appropriate Chief Officer and a copy sent to the Monitoring Officer.

If you are a contractor, as a first step, you should normally raise concerns with your manager, who will then inform the lead officer who is dealing with the particular contract. If you do not have a manager, you should raise your concerns direct with the lead officer. This depends on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that your manager or the lead officer is involved, you should approach the Monitoring Officer direct.

Otherwise, the lead officer receiving notification of concerns under this Policy will inform the Monitoring Officer that a confidential report has been received and provide a copy. If the concern relates to financial irregularities or failures of financial controls the lead officer receiving the report will also immediately notify the Chief Finance Officer.

Concerns may be raised verbally or in writing. A copy of any report you send to your manager or lead officer should also be sent to the Monitoring Officer for monitoring purposes.

The Monitoring Officer is responsible for the maintenance and operation of this policy and will monitor how the complaint is handled and ensure that the requirements of this policy are fulfilled.

The earlier you express the concern the easier it will be to take action.

Officers and Contractors can get confidential, independent advice from the charity Public Concern at Work on 0207 404 6609. Their website is at [www.pcaw.co.uk](http://www.pcaw.co.uk)

You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

You can invite your trade union or professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

Concerns can also be raised through your trade union.

## 9. How the Combined Authority will respond

The Authority will respond to your concerns, and it will be necessary to investigate your concerns but this is not the same as either accepting or rejecting them.

Within **3 working days** of a concern being raised, you will be sent a written response:

- acknowledging that the concern has been received;
- indicating how it is proposed to deal with this matter;
- giving an estimate of how long it will take to provide a final response;
- telling you whether any enquiries have been made; and
- supply you with information on staff support mechanisms.

The Monitoring Officer will be sent a copy of this response.

Where appropriate, matters raised may:

- Be investigated by management, internal audit, or through the disciplinary process.
- Be referred to the police or other statutory agencies.
- Be referred to the external auditor.

In order to protect individuals and those about whom concerns are raised, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

The amount of contact between the individual considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the investigating officers, will seek further information from you.

Where any meeting is arranged, and this can be off-site if you so wish, you can be accompanied by a trade union or professional association representative or a friend.

The Combined Authority will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give

evidence in criminal or disciplinary proceedings the Combined Authority will arrange for you to receive advice about the procedure.

The Combined Authority accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcomes of any investigation.

## 10. The Responsible Officer

The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and may report as necessary to the Leadership Board, but in such a way that your confidentiality will be preserved.

It is the responsibility of any manager/director who receives a whistleblowing report to provide the Monitoring Officer with:

- a copy of the original report immediately;
- the initial written response to the person raising the concern; and
- any further responses.

The Monitoring Officer as soon as possible must also be informed of the outcome(s) of any investigation and any actions instigated as a result.

## 11. How the matter can be taken further

This policy is intended to provide Officers and Contractors with an avenue within the Combined Authority to raise concerns and hopes any whistleblower would be satisfied with any action taken. If you are not satisfied with the outcome of the confidential report, a request in writing for the investigation and outcome to be reviewed can be made to the Head of Paid Service. If you remain dissatisfied and want to take the matter outside of the Combined Authority, advice is available from trade unions and local Citizens Advice Bureau on the options that are available.

One possibility is that you may wish to rely on your rights under the Public Interest Disclosure Act 1998. This Act gives you protection from victimisation if you make certain disclosures of information in the public interest. The provisions are quite complex and include a list of prescribed persons outside of the Combined Authority who can be contacted in certain circumstances (see The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2003 [www.legislation.hmsso.gov.uk](http://www.legislation.hmsso.gov.uk)). You should seek advice on the effect of the Act from the persons referred to above.

If you do take the matter outside of the Combined Authority, you should ensure that you do not disclose information where you owe a duty of confidentiality to persons other than the Combined Authority (e.g. service users) or where you would commit an offence by making disclosure.

In order to ensure that you do not make any such disclosures it is advisable to check the position with the Monitoring Officer.

## Part 7 Members Allowances

The Order provides that no remuneration is to be payable by NECA to its members, other than allowances for travel and subsistence paid in accordance with a scheme drawn up by NECA.

### A. Members Allowances Scheme

Note: All rates of allowance within this Section are effective from 29 April 2014.

#### 1. Interpretation

In this Scheme “Year” means the 12 months ending with 31 March

#### 2. Renunciation

A member may by notice in writing given to the Chief Finance Officer elect to forego any part of his or her entitlement to an allowance under this Scheme.

#### 3. Claims/Payments

All claims relating to subsistence and travelling expenses must be supported by receipts.

#### 4. Amendments to Scheme

Amendments to this scheme can be made by the Leadership Board at any time.

### B. Scheme of travel and subsistence allowance

#### 1. Qualifying Duties

The definition of duties qualifying for the payment of travel and subsistence allowances shall include any duty carried out by any member of NECA in accordance with a request, authorisation or designation by the Leadership Board; or in accordance with a request by the Monitoring Officer or Chief Officer for the purpose of, or in connection with the discharge of the functions of NECA.

#### 2. Travel

Members are expected to travel by standard class rail. First class travel is considered acceptable only in the following circumstances:

- a) Additional space and privacy is required during the journey in order to work.
- b) Where the cost of discounted first class travel is less than that of the cheapest available standard class ticket.

Members can make their own travel arrangements and (other than by private car) may claim a sum equal to the cost of the rail fare or their actual expenses, whichever is the lesser.



The rate for travel by taxi shall be:

- a) in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid; and
- b) in any other case, the amount of the fare for travel by public transport.

### 3. Motor Mileage

The authorised rate where members travel by their own car or van, or one belonging to a member of their family, or one otherwise provided for their use is 45p per mile (all engine sizes) up to 10,000 miles per annum.

The above rates may be increased by the amount of any expenditure incurred on tolls, ferries or parking fees, including overnight garaging.

### 4. Bicycle

Members who travel to approved duties by bicycle will be reimbursed at a rate of 20p per mile.

### 5. Subsistence

#### Day Subsistence

Day subsistence rates are on a 'meals' basis, with eligibility based on the time of day the meal is taken and time away from home, as follows:

**Breakfast rate** A rate of up to £5.00 may be paid where a Member leaves home earlier than usual and before 6.00 am and incurs a cost on breakfast taken away from home.

**One meal** (Five hour rate) - A rate of up to £5.00 may be paid where the Member has been away from his home/normal place of work for a period of at least five hours and has incurred a cost on a meal.

**Two meal** (Ten hour rate) - A rate of up to £10.00 may be paid where the Member has been away from his home/normal place of work for a period of at least ten hours and has incurred a cost on a meal or meals.

**Late evening meal** A rate of up to £15.00 may be paid where the Member has to work later than usual, finishes work after 8.00 pm having worked a normal day and has to buy a meal which would usually be taken at home.

If the Member is paid an allowance under the five or ten hour rule, the late meal allowance could still be paid if they finished work after 8.00 pm and purchased a meal that would usually be taken at home.

It is important to remember that subsistence rates are maximum amounts and claims for such expenses should total the amount actually incurred or the maximum amount whichever is the lesser amount. Receipts must be submitted.

#### Overnight Accommodation

- a) The cost of overnight accommodation will be paid where necessary at a reasonable rate for a 3 star hotel.
- b) The amount claimed should not be higher than the amount actually incurred and any reimbursement at a higher rate than is specified will only be permitted when prior agreement to the cost has been given by NECA Monitoring Officer.

#### Meals provided free of charge

The rates specified above are to be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body in respect of the meal or the period to which the allowance relates.

### **6. Meals on Trains**

When main meals are taken on trains during a period for which there is an entitlement to day subsistence, the reasonable cost of the meals (including VAT) may be reimbursed in full. In such circumstances, reimbursement for the reasonable cost of a meal would replace the entitlement to the day subsistence allowance for the appropriate meal period.

### **7. Claims / Payments**

Claims for payments under this scheme shall be made in writing to the Chief Finance Officer of the Constituent Authority which has nominated the Member to serve on NECA, on a quarterly basis, in arrears, or at more frequent intervals if the Member so chooses. Payments shall be made by the nominating Constituent Authority on the same basis. All payments are rechargeable to NECA by the Constituent Authorities on a quarterly basis.

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