



Promoting City, Coast & Countryside

THE CONSTITUTION

March 2005

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PART 1

SUMMARY AND EXPLANATION

Summary and Explanation

(i) The Council's Constitution

Lancaster City Council has agreed a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

(ii) What is in the Constitution?

Article 1 of the Constitution provides a statement of purpose which lists the key issues important to the Council in promoting openness and accountability in its decision making process.

Articles 2-16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny (Article 6)
- The Cabinet (Article 7)
- Regulatory and other Committees (Article 8)
- The Standards Committee (Article 9)
- Area Committees and Forums (Article 10)
- Joint Arrangements (Article 11)
- Officers (Article 12)
- Decision making (Article 13)
- Finance, contracts and legal matters (Article 14)
- Review and revision of the Constitution (Article 15)
- Suspension, interpretation and publication of the Constitution (Article 16)

(iii) How the Council Operates

The Council is composed of 60 Councillors elected every four years. Councillors are democratically accountable to residents of their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. A full list of Councillors' names, addresses and telephone numbers is set out in Part 3 Schedule 1. Details of the committees and bodies on which they serve is available from Administration Services and on the Council's website. In the case of Cabinet Members, their area of responsibility, and their membership of political parties, is set out in Part 3 Schedule 3.

Councillors have agreed to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee monitors and advises them on the Code of Conduct.

All Councillors meet together as the Council. Here, Councillors approve the Constitution and any amendments to it, the Council's overall policies and set the budget each year. Meetings of the Council are normally open to the public, except where personal or confidential matters are being discussed.

The Council will elect the Leader and Cabinet members and agree the representation on Council committees, the Overview and Scrutiny Committee and the Budget and Performance Panel.

(iv) How Decisions are Made

The Cabinet is the part of the Council, which is responsible for taking Key Decisions and implementing the Council's Budget and Policy Framework. The Cabinet is made up of the Leader and a Cabinet of 9 Councillors whom the Council elects. When major decisions (including all Key Decisions) are to be discussed or made, these are published in the Cabinet's Forward Plan insofar as they can be anticipated and taken by the Council's Cabinet. If these major decisions are to be discussed with Council Officers at a meeting of the Cabinet, this will be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions that are in line with the Council's overall policies and budget. If it wishes to make a decision that is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

All Meetings of the Council's Committees are open to the public except for those items where personal or confidential matters are being discussed.

Some decisions as a matter of law may not be taken by the Cabinet. These decisions include planning, licensing and personnel matters. The Council has standing and regulatory committees to deal with these matters.

(v) Overview and Scrutiny

The Overview and Scrutiny Committee, Budget and Performance Panel and Task Groups support the work of the Cabinet and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public reviews/inquiries into matters of local concern. These lead to reports and recommendations that advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Cabinet. Non-executive Members can 'call-in' a decision that has been made by the Cabinet or Key Decisions made by officers, but not yet implemented. This enables the Overview and Scrutiny Committee to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

(vi) The Council's Staff

The Council employs Officers to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationship between Officers and Members of the Council.

(vii) Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureaux can advise on individuals' legal rights.

Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in the Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillors about any matters of concern to them relating to functions of the Council;
- obtain a copy of the Constitution;
- attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- participate in the Council's question time, participate in Planning Committee and contribute to research or reviews undertaken by the Overview and Scrutiny;
- find out, from the Cabinet's Forward Plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers, and when;
- attend meetings of the Cabinet;
- see reports and background papers and any record of decisions made by the Council and Cabinet;
- make complaints to the Council in line with the Council's Complaints Procedure;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own Complaints Procedure;
- complain to the Standards Board for England if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external Auditor.

The Council welcomes participation by its citizens in its work. The Council has available a statement of the rights of citizens to inspect agendas and reports and attend meetings. For further information on this and your rights as a citizen, please contact the Head of Administration Services, at Lancaster Town Hall.

PART 2

ARTICLES OF THE CONSTITUTION

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Article 1 – The Constitution

1.01 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of Lancaster City Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations.
2. Assist the Council in promoting economic, social and environmental well being.
3. Provide a means of improving the delivery of services to the community.
4. Support the active involvement of citizens in the process of Local Authority decision making.
5. Help Councillors represent their constituents more effectively.
6. Enable decisions to be taken efficiently, effectively and impartially.
7. Create a powerful and effective means of holding decision makers to public account.
8. Ensure that no individual will be involved in reviewing or scrutinising a decision which they took or took part in.
9. Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions.

1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option that it thinks is closest to the purposes stated above. This will normally be at the discretion of the meeting's Chairman after seeking officer advice.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

Article 2 - Members of the Council

DEVELOPING ROLES FOR COUNCILLORS

2.01 Composition and Eligibility

- (a) **Composition.** The Council will comprise 60 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the district or those living or working there will be eligible to hold the office of councillor.

2.02 Election and Terms of Office of Councillors

Election and terms. The regular election of councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.03 Roles and Functions of all Councillors

- (a) **Key Roles.** All councillors will:
 - (i) Collectively decide Council Policy and carry out a number of strategic and corporate management functions;
 - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (iv) balance different interests identified within the ward and represent the ward as a whole;
 - (v) be involved in decision-making;
 - (vi) be available to represent the Council on other bodies; and
 - (vii) maintain the highest standards of conduct and ethics.
- (b) **Rights and Duties**
 - (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
 - (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it. To do so would be viewed as a prima facie breach of the Code of Conduct.

- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.04 Conduct

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution, which is available for public inspection.

2.06 Register of Interests

The Council maintains a register of the interests of Councillors in accordance with the Local Government Act 2000 and the Code of Conduct.

The register is open to inspection at Lancaster Town Hall.

Article 3 - Citizens and The Council

3.01 Citizens' Rights

Citizens have the following rights: (Their rights to information and to participate in Council business are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.)

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote at all elections and referendums in which they are entitled to vote by law, and to sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council except for that part of a meeting where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the Cabinet, Council Committees and Overview and Scrutiny, except for that part of a meeting where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
 - (iii) find out from the Forward Plan what Key Decisions will be taken by the Cabinet and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in:
 - (i) **Meetings of Full Council**
 - Citizens may address Council in accordance with Addendum 2 to Part 4, Section 1 of this Constitution.
 - Citizens may ask questions in Council in accordance with the procedures set out in Rule 10 of Part 4, Section 1 of this Constitution.
 - (ii) **Planning Committee**
 - Citizens who are affected by an application may participate in accordance with the Council's Public Participation Scheme.
 - (iii) **Licensing Committee**
 - Citizens may make representations as objectors to individual applications.
 - (iv) **Overview and Scrutiny**
 - Citizens may contribute as set out in the Overview and Scrutiny Rules of Procedure in Part 4, Section 5 of this Constitution.

- (c) **Complaints.** Citizens have the right of complaint to:
- (i) the Council itself under its complaints scheme;
 - (ii) the Ombudsman after using the Council's own complaints scheme;
 - (iii) the Standards Board for England about an alleged breach of the Code of Conduct for Councillors.

3.02 **Citizens' Responsibilities**

Citizens must not be violent, abusing or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

Article 4 – The Full Council

4.01 Meanings

(a) Policy Framework

The policy framework means the following plans and strategies:-

(i) Those required by Regulations to be adopted by the Council:-

Best Value Performance Plan (Corporate Plan Companion)

Community Strategy

Community Safety Strategy

(ii) Those recommended by Government Guidance to be adopted by the Council:-

Council's Corporate Plan

Housing Strategy 2002/05

LA 21 Strategy and Policy Statement

(iii) Other plans and strategies which the Council may from time to time decide should be for the Council to adopt.

Local Development Framework Documents (previously the Lancaster and District Local Plan)

Regeneration Strategy

(b) Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

(c) Housing Land Transfer

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the Full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution other than as set out in Article 15.02.
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) making decisions about any Cabinet function matter where the decision maker is minded to make it in a manner which would be contrary to the policy framework or not wholly in accordance with the budget, unless a decision has already been made in accordance with Part 4 Section 3 Budget and Policy Framework Rule 4.
- (d) electing annually the Mayor, Deputy Mayor, the Leader and Cabinet;
- (e) agreeing and/or amending the terms of reference for Council Committees, the Overview and Scrutiny Committee and the Budget and Performance Panel, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area, conferring the title of honorary alderman or freedoms of the City;
- (i) confirming the appointment of head of paid service;
- (j) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (k) exercising all functions relating to elections and local government boundaries;
- (l) all other matters which, by law, must be reserved to Council.

4.03 Council Meetings

There are three types of Council meeting;

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.04 Responsibility for Functions

The Council will maintain the lists in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

Article 5 – Chairing the Council

5.01 General Roles and Functions of the Mayor

The Mayor and in the Mayor's absence the Deputy Mayor will have the following roles and functions:

- (a) to promote public involvement in the Council's activities;
- (b) to be the conscience of the Council and to act on behalf of the Council;
- (c) to attend such civic and ceremonial functions as the Council and the Mayor determine appropriate;
- (d) to uphold and promote the purpose of the Constitution and to interpret the Constitution when necessary.

5.02 Duties of Mayor or Person Presiding Over Full Council Meetings

- (a) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the forum in which members collectively who are not on the Cabinet are able to hold the Cabinet to account;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently with regard to the rights of Councillors, the interests of the community and the need to contain and expedite Council business in the time set aside for the Council's work;
- (c) in all debates and members' question time the Mayor shall strive to ensure that discussion shall be representative of the views of the Council;
- (d) to keep order and ensure that members' behaviour is of the highest standard and does not bring the Council into disrepute.
- (e) when in debate or question time the Council shows no signs of closing discussion and moving on to the next item of business; and in the Mayor's belief, debate or questions already put shall have represented the views of the Council, the Mayor shall intervene to limit debate or questions in order not to impede proper attention to further business (by issuing a Ruling of Closure of Debate – see Rule 14.12 of the Council Procedure Rules, Part 4, Section 1).
- (f) to use a second casting vote in the case of a tie.

Article 6 – Overview and Scrutiny

This article introduces and defines the concept of Overview and Scrutiny, and its place in the new political structures of local authorities. It creates arrangements to hold the Cabinet to account in public and to assist in reviewing existing and developing new policies.

Overview and Scrutiny will:

- Innovate and Challenge the way the Council operates and help the Council move away from the traditional Committee system.
- Add value to the Council through in-depth studies.
- Add value to the Council through selective studies of external crosscutting issues.
- Promote more informal small group working.
- Open up the local democratic process to greater public involvement.
- Add value to the Council through pre-decision scrutiny of Key Decisions through using the Forward Plan.
- Be involved with Best Value and performance management on a selective and strategic basis.
- Develop effective and positive channels of communication between itself and the Cabinet.
- Adopt a Select Committee style and approach wherever possible.
- Require effective and reliable officer support.

6.01 Terms of Reference

The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 or Regulations under Section 32 of the Local Government Act 2000, in relation to the matters set out in the right-hand column of the following table.

Committee	Scope
Overview and Scrutiny Committee	Co-ordinating and managing the scrutiny Work Programme and ensuring that there is effective and timely scrutiny of Council Policy, Budget and authority wide performance as well as holding the Cabinet to account.
Budget and Performance Panel	Consider the Council's overall and service specific Budget and performance management.
Task Groups	Created by the Overview and Scrutiny Committee as and when required. Task Groups will review the performance and plans for specific service areas or focus on defined areas of concerns. These may include services outside of the Council.

- The Overview and Scrutiny Committee will have a membership of 9 Councillors appointed on a PR basis at each Annual Business Council Meeting.
- The Budget and Performance Panel will have a membership of 9 Councillors appointed on a PR basis at each Annual Business Council Meeting.

- Task Groups will have a maximum membership of 9 Councillors appointed by the Overview and Scrutiny Committee as and when required.

6.02 **General Role**

Within its scope and terms of reference, Overview and Scrutiny will:

- (a) review and monitor the performance of the Council's services;
- (b) review and/or scrutinise policies, proposals, decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (c) make reports and/or recommendations to the Council and/or the Cabinet and/or any Joint or Area Committee/ Forum in connection with the discharge of any functions;
- (d) consider any matter affecting the area or its inhabitants; and
- (e) exercise the right to Call-in, for reconsideration, decisions made, but not yet implemented by the Cabinet and/or Area Committee/ Forum of the Council.

6.03 **Specific Functions**

- (a) **Policy Development and Review** – Within its scope and terms of reference Overview and Scrutiny Committee may:
 - (i) assist the Council and the Cabinet in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
 - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (iv) question Members of the Cabinet, Committees and the appropriate Officers about their views on issues and proposals affecting the area; and
 - (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny** – Within its scope and terms of reference Overview and Scrutiny may:
 - (i) review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and the appropriate Officers both in relation to individual decisions and over time;
 - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service area and, in particular, Best Value Reviews;
 - (iii) question Members of the Cabinet and/or Committees and appropriate Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

- (iv) make recommendations to the Cabinet and/or appropriate Committees and/or Council arising from the outcome of the scrutiny process;
 - (v) review and scrutinise the performance of other public bodies in the area and invite written reports and/or request them to address the Committee and local people about their activities and performance;
 - (vi) require Members of the Cabinet, the Chief Executive, Corporate Directors and Service Heads to attend to answer questions and give evidence on receipt of at least 5 days' written notice.
 - (vii) question and gather evidence from any person, not a Member or an Officer of the Council, with their consent;
- (c) **Annual Report** – The Overview and Scrutiny Committee will report annually to Council on behalf of the whole Overview and Scrutiny function on their workings and make recommendations for future work programmes and amended working methods if appropriate.
- (d) **Finance** – The Overview and Scrutiny Committee will exercise overall responsibility for the finances made available to support the Overview and Scrutiny function.
- (e) **Work Programme** – The Overview and Scrutiny Committee will exercise overall responsibility for the Overview and Scrutiny Work Programme and for ensuring that this is sustainable with regard to the support and resources that are available to it.

6.04 **Proceedings of Overview and Scrutiny**

The Overview and Scrutiny Committee, Budget and Performance Panel and Task Groups will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4, Section 5 of this Constitution.

Article 7 – The Cabinet

7.01 Role

The Cabinet will carry out all of the Local Authority's functions which are not the responsibility of any other part of the Local Authority, whether by law or under this Constitution.

7.02 Form and Composition

The Cabinet will consist of the Leader together with up to nine other Councillors, all elected by the Council, and will be considered to be properly constituted even if not all ten places are taken up as long as there are a minimum of .

Neither the Leader nor any Member of the Cabinet may be appointed to any Overview and Scrutiny Committee, Panel or Task Group.

Neither the Mayor nor the Deputy Mayor may be elected as Leader or to the Cabinet.

The Leader and Members of the Cabinet can sit on any Regulatory/other Standing Committees of the Council, with the exception that the Leader cannot sit on the Standards Committee. Members of the Cabinet cannot chair the Standards Committee, but can chair the Regulatory Committees.

7.03 Leader

The Leader will be a Councillor annually elected to the position of Leader by simple majority of the Council. In the event that only one nomination is put forward a vote will still be taken.

The Leader will hold office until:

- (a) they resign from the office; or
- (b) they are suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer a Councillor; or
- (d) they are removed from office by motion of the Council that requires the support of a minimum of 60% of those Elected Members present (rounded up), such number being not less than 31 votes; or
- (e) the next Annual Council when the position of Leader is elected by simple majority for the next twelve months.

7.04 Other Cabinet Members

In the event that a resolution for a PR Cabinet is carried by simple majority of the Council, other Cabinet Members, as nominated by Groups, shall be elected to the Cabinet en bloc. In any other case, including the case of a casual vacancy arising during the year in a non-PR Cabinet, Members who are nominated, seconded and willing to accept nomination shall be voted upon individually commencing with those one or more up to the number of vacancies as are nominated before the start of the meeting by the Leader or potential Leader until vacancies for other Cabinet Members are filled or until no more nominations are made. Nominations shall be put forward as a package by the Leader, but voted upon individually, commencing with those nominated by the Leader, until all vacancies are filled and no more nominations are made. Should an individual not be elected, further nominations may be made by Councillors but not by the Leader.

Cabinet Members will hold office until:

- (a) they resign from the office; or
- (b) they are suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer a Councillor; or
- (d) they are removed from office, either individually or collectively, by resolution of the Council that requires the support of a minimum of 60% of those Elected Members present (rounded up); such number being not less than 31 votes.
- (e) the next Annual Council; or
- (f) the next ordinary meeting of the Council following a change in the PR calculation of the Council which affects the composition of the Cabinet.

7.05 Meetings of the Cabinet and its Committees

- (a) Each decision-making meeting of the Cabinet and its Committees will meet in public except for those parts of items that are exempt or of a confidential nature.
- (b) The Cabinet and its Committees may meet informally in private with or without Officers present to consider options to bring forward to decision making meetings.

7.06 Functions of the Cabinet

The functions of the Cabinet shall be as follows:

- (a) Within the Budget and Policy Framework set by the Full Council, the Rules of Procedure and the Financial Regulations, to discharge the Council's powers, duties and responsibilities.
- (b) To prepare draft proposals for the Policy Framework documents as set out in the functions of the Full Council and in so doing to consult with interested parties and the Overview & Scrutiny Committee and to include in its submission to the Full Council a statement of all views received and the Cabinet response to those views.
- (c) On an annual basis, to draw up proposals for the City Council's Revenue Budget, Capital Programme, Treasury Management Policy and Council Tax levels and in doing so to consult with interested parties and the Budget and Performance Panel for consideration and determination by Full Council.
- (d) To approve the Forward Plans prepared by the Leader of the Cabinet in accordance with Regulations 13 and 14 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 and to instruct the Chief Executive to publish appropriate notices, in accordance with Regulation 12 of the Regulations 2000 in respect of the intention to take Key Decisions (see definition in Part 2 Article 13 paragraph 13.03 (h)) and the preparation of Forward Plans. Copies of Forward Plans shall be circulated to all City Councillors and co-opted Members at least two weeks in advance of the commencement period covered by such Plans.
- (e) To be responsible for promoting the economic, social and environmental well being of the area.

- (f) To refer to the Full Council for determination all matters which are not in accordance with the Budget and Policy Framework adopted by the Full Council, except matters of urgency which shall be dealt with in accordance with the procedures set out in Part 4, Section 2.
- (g) To undertake a continuing review of the City Council's broad policy objectives and priorities over the whole range of its functions and to secure a continuous review and evaluation of the effectiveness of services and demonstrate that the City Council is delivering those services in accordance with the principles of Best Value and Community Planning, calling upon the Overview and Scrutiny function to assist in that process as it considers appropriate, including recommendations to the Full Council for adoption of the Rolling Programme of Best Value Service Reviews.
- (h) To report to the Full Council at each scheduled meeting on the proceedings of the Cabinet. The report shall include a summary of all Key Decisions taken by the Cabinet collectively, Cabinet Committees and Officers.
- (i) To report to the Full Council on any matters which the Full Council or Overview and Scrutiny Committee have requested.
- (j) The Leader and each Member of the Cabinet will present a business progress report annually in writing to Council at the Council meeting preceding Annual Council.
- (k) To take any urgent action necessary in the event of a civil emergency and to determine general policy matters at such times.
- (l) To consider all Bills introduced into Parliament and all Acts passed, which affect the interests of the City Council and pursue any changes in the law which it feels appropriate and make recommendations to the Full Council involving significant policy issues.
- (m) To discharge any function under a Local Act other than a function specified or referred to in Regulation 2 or Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and other than any other function where the power relates to the granting of a consent, licence, permission registration or similar function.
- (n) To make arrangements for the determination of any appeal arising from any decision other than of the Cabinet where a right of appeal arises by virtue of any policy or statutory provision.
- (o) To receive and take action as necessary on reports from Area Forums.
- (p) To delegate powers as appropriate to its Committees.

7.07 Responsibility for Functions

The Leader will maintain a list in Part 3 of this Constitution setting out the portfolio and decision-making responsibilities of individual Members of the Cabinet. Cabinet functions delegated to Officers are set out in Part 3.

7.08 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedures Rules set out in Part 4, Section 4 of this Constitution.

7.09 Individual Cabinet Member Decisions

Individual Cabinet members shall have delegated authority to take non Key Decisions within their portfolio (as set out in Part 3 of the Constitution), in accordance with the Cabinet Procedure Rules set out in Part 4, Section 4 of the Constitution.

Article 8 – Regulatory and Other Committees

8.01 Regulatory and other Committees

The Council will appoint the Committees set out in Part 3 of this Constitution to discharge the functions as described therein.

Article 9 – The Standards Committee

9.01 Standards Committee

The Council meeting will establish a Standards Committee.

9.02 Composition

(a) Membership

The Standards Committee will be composed of:

Seven councillors (other than the leader) in accordance with the political balance rules in Section 15 of the Local Government and Housing Act 1989

Three persons who are not councillors or officers of the Council or any other body having a standards committee (the Independent Members)

One member of a parish council wholly or mainly in the Council's area (the Parish Member)

The appointment of Cabinet Members to the Standards Committee shall be limited to one Member only.

(b) Independent Members

Independent Members will be entitled to vote at meetings and will be selected following local advertisement.

(c) Parish Member

The Parish Member must be present when matters relating to Parish Councils or their members are being considered.

(d) Chairing the Committee

A Member of the Cabinet may not chair the Committee. The Chairman will be one of the Independent Members as defined in 9.02(a) above and will be nominated and selected at the first meeting in each Municipal year.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members.
- (b) assisting the councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;

- (e) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct; in accordance with Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002;
- (g) dealing with any report from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer;
- (h) the exercise of (a) to (g) above in relation to the parish councils wholly or mainly in the Council's area and the members of those parish councils;

Article 10 – Area Forums

10.01 Area Forums

The Council may appoint Area Forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

The Council will consult with local resident groups and with the relevant parish and town councils either directly or through the Lancashire Association of Parish and Town Councils and the Chairmen of relevant parish meetings when considering whether and how to establish Area Forums.

10.02 Form, composition and function

- (a) **Table of Area Forums.** The Council may appoint Area Forums on the basis as outlined below.

Composition	Terms of Reference
Composition to be determined by Constitution of Area Forums.	To reflect its consultative role, the body has an advisory capacity.
All Councillors for the area will be members of the forum of which one will be Chairman.	It can submit reports on matters of concern locally to the Cabinet, Overview and Scrutiny Committee or the Council on, for example, an annual, half- yearly or quarterly basis.
Specialist advisers and representatives from voluntary organisations will attend by invitation.	Only Councillors to have voting powers to bring formal recommendations

- (b) **Delegations.** Initially Area Forums will be consultative bodies and will have no delegated powers.

10.03 Area Forums – access to information

Area Forums will comply with the Access to Information Rules in Part 4, Section 2 of this Constitution.

Agendas and notices for Area Forum meetings which deal with both functions of the executive and functions which are not the responsibility of the executive will state clearly which items are which.

10.04 Cabinet members on Area Forum

A member of the Cabinet may serve on an Area Forum if otherwise eligible to do so as a Councillor.

Note: This Article will be reviewed in the event of Area Forums being established by the Council.

Article 11 – Joint Arrangements

11.01 Arrangements to promote well being

The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

11.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions (which are not Cabinet functions) in any of the participating authorities, or advise the Council.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances.
 - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;

The political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements including any delegations to joint committees will be set out in the Council's scheme of delegations in Part 3 of this Constitution.

11.03 Access to information

- (a) The Access to Information Rules in Part 4, Section 2 of this Constitution apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- (c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.04 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

11.05 Contracting out

The Council, for functions which are not executive functions, or the Cabinet, for executive functions, may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

Article 12 – Officers

12.01 Management Structure

- (a) **General** – The Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers** – The Council will engage persons for the following posts. These posts will be designated Chief Officers:
- Chief Executive
 - Corporate Director (Central Services)
 - Corporate Director (Community Services)
 - Corporate Director (Regeneration)

together with Monitoring Officer and Chief Financial Officer (Section 151) where these functions are not performed by the four posts above. The Chief Executive will be appointed by the Council, having regard to recommendations made from an Appointments Panel. Corporate Directors will be appointed by an Appointments Panel.

- (c) **Chief Executive, Monitoring Officer and Chief Financial Officer (Section 151)** - Will have the functions described in Article 12.02-12.04 below.
- (d) **Structure** - The Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers. This is set out at Part 7 of this Constitution.
- (e) **Restrictions on functions** – The Chief Executive may not be the Monitoring Officer. The Monitoring Officer cannot be the Chief Executive or Chief Financial Officer (Section 151). The Chief Financial Officer cannot be the Monitoring Officer.

12.02 Functions of the Chief Executive

- (a) **Functions**
- (i) The Chief Executive is the Council's Head of the Paid Service
 - (ii) Overall corporate management and operational responsibility (including overall management responsibility for all Officers).
 - (iii) Provision of professional advice to all parties in the decision making process.
 - (iv) Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.
 - (v) Representing the Council on partnership and external bodies (as required by statute or the Council).
- (b) **Discharge of functions by the Council** – The Chief Executive will report to full Council and/or the Cabinet and any Committees or Overview and Scrutiny meeting on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

- (c) **Officer Attendance at Member Meetings** – The Chief Executive and/or Corporate Directors will determine which Council Officers will support and attend Member meetings.

12.03 Functions of the Monitoring Officer

- (a) **Maintain the Constitution** – The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensure lawfulness and fairness of decision making** - After consulting with the Chief Executive and Chief Financial Officer (Section 151), the Monitoring Officer will report to the full Council or to the Cabinet in relation to an executive function if they considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Support the Standards Committee** – The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receive reports** - The Monitoring Officer will receive and act on reports made by Ethical Standards Officers and decisions of the case tribunals.
- (e) **Conduct investigations** - The Monitoring Officer will conduct investigations into matters referred by Ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Be the Proper Officer for access to information** – The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.
- (g) **Advise whether Cabinet decisions are within the budget and policy framework** - The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (h) **Be the Corporate Complaints Officer** - The Monitoring Officer will co-ordinate the Council's corporate complaints procedure and be the point of referral where complainants remain dissatisfied.
- (i) **Provide advice** – The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

12.04 Functions of the Chief Financial Officer (appointed under S151 of the Local Government Act 1972)

- (a) **Ensure lawfulness and financial prudence of decision making** - After consulting with the Monitoring Officer and Chief Executive, the Chief Financial Officer (Section 151) will report to the full Council and/or to the Cabinet in relation to an executive function and the Council's external auditor if they considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

- (b) **Administrate financial affairs** – The Chief Financial Officer (Section 151) will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contribute to corporate management** – The Chief Financial Officer (Section 151) will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Provide advice** – The Chief Financial Officer (Section 151) will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget framework issues in conjunction with the Monitoring Officer to all Councillors and will support and advise all Councillors and Officers in their respective roles.
- (e) **Give financial information** – The Chief Financial Officer (Section 151) will provide financial information to the media, members of the public and the community.

12.05 Duty to provide sufficient resources to the Chief Executive, Monitoring Officer and Chief Financial Officer (Section 151)

The Council will provide the Chief Executive, Monitoring Officer and Chief Financial Officer (Section 151) with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.06 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

12.07 Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out in Part 4, Section 8 of this Constitution.

12.08 Deputising Arrangements

- (a) In the absence of the Chief Executive, any of the three Corporate Directors may exercise his functions.
- (b) The Monitoring Officer has nominated the Head of Legal Services to act as Deputy Monitoring Officer in accordance with Section 5(7) of the Local Government and Housing Act 1989.
- (c) In the absence of the Chief Financial Officer (Section 151), the functions may be exercised by the Accountancy Services Manager and the Internal Audit Manager.

Article 13 – Decision Making

13.01 Responsibility for Decision Making

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

13.02 Principles of Decision Making

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

- (a) Proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) Due consultation and the taking of professional advice from Officers;
- (c) Respect for human rights;
- (d) A presumption in favour of openness;
- (e) The aims and desired outcomes will be clearly expressed;
- (f) The options that were considered and the reasons for arriving at the decision will be explained.

13.03 Types of Decision

- (a) Decisions relating to functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) A decision should be a Key Decision on financial grounds if it relates to any of the following:
 - i. expenditure or savings proposal not included within approved capital or revenue budgets (including new schemes, external funding bids, increased spending on or transfers/virements between budgeted schemes):
 - estimated at over £50,000 in total (gross), or
 - where there are unbudgeted net revenue costs or other potential liabilities arising in current or future years.
 - ii. Any other initiative that relates to or would result in potential savings of over £50,000 in any year, which are not provided for in the approved budget.
 - iii. The allocation of revenue or capital grants (receivable or payable) or any general budget allocations where their specific use or method of allocation has not previously been approved by Cabinet. This also covers any proposals to delegate such arrangements.
 - iv. The award of contracts over £50,000.
 - v. Proposals that involve taking on the role of Accountable Body for a particular initiative.
 - vi. The carry forward of under- or overspends, irrespective of amount.

- vii. Increasing future years' spending forecasts in line with any flexibility authorised by Council, irrespective of amount.
- viii. With the exception of the following which shall not be a Key Decision:
 - Transactions carried out as part of the efficient administration of the Council's finances in line with council policy and the s151 Officer's functions, e.g. treasury management.
 - Subsequent allocation of grants (receivable or payable) within a framework and criteria previously agreed by Cabinet.
 - Setting of fees and charges levels, including concessions, within the approved Budget and Policy Framework.
 - Incurring expenditure essential to meet any immediate needs created by an emergency threatening life and limb or related to major structural damage threatening the fabric of a building [see Financial Procedures section A 1.11 (f)].

The Section 151 Officer will be responsible for the interpretation of the financial thresholds should the need arise.

- (b) A decision should be a Key Decision on community impact grounds if it has a significant and lasting impact to any of the following:
 - i. Reputation of the Council
 - ii. Environment
 - iii. Local Economy
 - iv. Community Safety
 - v. Human Rights, Equal Opportunity, or Racial Equality

The Monitoring Officer will be responsible for the interpretation of the words significant and lasting in the community impact test.

13.04 Decision Making by the Full Council

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.05 Decision Making by the Cabinet and Individual Cabinet Members

Subject to Article 13.08, the Cabinet Members will follow the Cabinet Procedures Rules set out in Part 4, Section 4 of this Constitution when considering any matter.

13.06 Decision Making by Overview and Scrutiny

Overview and Scrutiny Members will follow the Overview and Scrutiny Procedures Rules set out in Part 4, Section 5 of this Constitution when considering any matter.

13.07 Decision Making by Other Committees Established by the Council

Subject to Article 13.08, other Council Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.08 Decision Making by Council Bodies Acting as Tribunals

The Council, a Councillor or an Officer acting as a Tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Article 14 - Finance, Contracts and Legal Matters

14.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4, Section 6 of this Constitution.

14.02 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4, Section 7 of this Constitution.

14.03 Legal Proceedings

The Head of Legal Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to a decision of the Council or in any case where the Head of Legal Services considers that such action is necessary to protect the Council's interests.

14.04 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £50,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by the Chief Financial (Section 151) Officer, or, in his/her absence, one of the officers named in Article 12.08(c), and by the Chief Executive or any Corporate Director, or must be made under the common seal of the Council attested by at least one officer.

Where any contract with a value exceeding £50,000 is required to be signed away from Council offices, for example at an auction, it shall be signed by any two officers of the Council, authorised in writing for the purposes of the particular contract by the Chief Executive, or in his absence by the Chief Financial (Section 151) Officer.

14.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place within the custody of the Head of Legal Services. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal Services should be sealed. The affixing of the Common Seal will be attested by the Chief Executive or a Corporate Director.

Article 15 – Review and Revision of the Constitution

15.01 Duty to Monitor and Review and Constitution

The Monitoring Officer and Audit Committee will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for Monitoring and Review of Constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

- (a) observe meetings of different parts of the Member and Officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and
- (d) compare practices in this Authority with those in other comparable Authorities or national examples of best practice.

15.02 Changes to the Constitution

- (a) **Approval** - Changes to the Constitution will only be approved by the full Council after hearing recommendations on a proposal from the Monitoring Officer and/or the Audit Committee.
- (b) **Exceptions** –
 - i. It has been delegated to the Audit Committee to agree amendments to the Financial Regulations and Contract Procedure Rules and the Constitution will be updated to reflect any such changes.
 - ii. Textual or factual amendments required to keep the Constitution up to date, or agreed consequential amendments as a result of Council decisions, may be implemented by the Monitoring Officer.
- (c) **Change from a Leader and Cabinet form of Executive to alternative arrangements** – The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

15.03 Interpretation of the Constitution

The ruling of the Chairman of any meeting as to the application of the Constitution or as to any proceedings of the meeting shall not be challenged. Such interpretation will have regard to the purposes of this Constitution as set out in paragraph 1.04 of Article 1.

Article 16 – Suspension, Interpretation and Publication of the Constitution

16.01 Suspension of the Constitution

- (a) **Limit to Suspension** – The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to Suspend** – A motion to suspend any rules will not be moved without notice unless at least one half of the full membership is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules Capable of Suspension** - The following Rules may be suspended in accordance with Article 16.01:

Council Procedure Rules, except Rules 16.5 and 17.3 thereof.

16.02 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

16.03 Publication

- (a) The Chief Executive will give a printed copy of this Constitution to each Member of the Authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (d) The Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Schedule 1 – Description of Executive Arrangements

The following parts of this Constitution constitute the executive arrangements:

1. Part 2, Article 6 – Overview and Scrutiny and the Overview and Scrutiny Procedure Rules, Part 4, Section 5;
2. Part 2, Article 7 – The Cabinet and the Cabinet Procedure Rules, Part 4, Section 4;
3. Part 2, Article 10 – Area Committees and Forums;
4. Part 2, Article 11 – Joint Arrangements;
5. Part 2, Article 13 – Decision Making and the Access to Information Procedure Rules, Part 4, Section 2;
6. Part 3 – Responsibility for Functions.

PART 3

RESPONSIBILITY FOR FUNCTIONS

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Part 3 Responsibility for Functions

SECTION 1 – COUNCIL

1. Adopting and changing the Constitution in accordance with Article 15.
2. Approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer (as defined in Article 4.01).
3. Making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework and the budget where the Cabinet is minded to make the decision contrary to the policy framework or the budget (subject to urgency procedures in Part 4).
4. Appointing the Mayor, the Leader of the Council, the Cabinet, Overview and Scrutiny Committee and Budget and Performance Panel.
5. Agreeing and/or amending the terms of reference for Committees, Overview and Scrutiny Committee and Budget and Performance Panel, deciding on their composition and making appointments to them, including appointment of Chairmen.
6. Agreeing the basis on which appointments to outside bodies should be made the Council.
7. Adopting a Members' Allowances Scheme under Article 2.05.
8. Changing the name of the area, and conferring the title of Honorary Alderman or Freedom of the City.
9. Making the appointment of the Head of Paid Service.
10. Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills.
11. Appointment of Electoral Registration Officer and Returning Officer and other functions relating to elections under the Representation of the People Act 1983.
12. Functions in relation to Parishes and Parish Councils under the Local Government Act 1972 and Local Government and Rating Act 1997.
13. To make payments or provide other benefits in cases of maladministration under Section 92 of the Local Government Act 2000.
14. Duty to make proper arrangements for proper administration of financial affairs under Section 151 of the Local Government Act 1972.
15. Duty to designate a post as the Head of the Authority's Paid Service and to provide staff under Section 4(1) of the Local Government and Housing Act 1989.
16. Duty to designate a post as the Monitoring Officer and to provide staff under Section 5(1) of the Local Government and Housing Act 1989.
17. Designation of areas where public drinking may be restricted under the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001.
18. All other matters reserved by law to the Council.

SECTION 2 - THE CABINET

Composition: Leader and Cabinet of 9 Members of the Council.

Terms of Reference:

The Cabinet is responsible for initiating and developing policy and taking policy decisions within the budget and policy framework set by the Council for all functions which are not specified as the responsibility of the Council, the Licensing Regulatory Committee, the Planning and Highways Regulatory Committee, the Personnel Committee, the Appeals Committee, the Audit Committee and the Standards Committee.

In summary these are:

Finance:

- To prepare the Council's annual Revenue Budget, Capital Programme, Treasury Management Policy and Council Tax levels.
- To co-ordinate corporate budget monitoring.
- To oversee the performance of Financial Services.

Revenues and Benefits:

- Collection and administration of the Council Tax, National Non-Domestic Rate and collection of other income due to the Council.
- Supervision of the payment and administration of Benefits and rebates.
- Applications for rate relief.

Personnel:

- The Council's human resources implications for the provision of services (other than conditions of service).

Property:

- Asset management planning.
- The Council's commercial property and other land and buildings, including markets.
- Development, maintenance and cleaning of buildings and premises for the accommodation of Council employees and services.

Community Affairs:

- Oversight of the Council's civic and ceremonial affairs, in consultation with the Mayor and Deputy Mayor as appropriate, including matters relating to:
 - The Mayoralty
 - Civic events and celebrations
 - Twinning
 - Official visits

Legal:

- Oversight of the effectiveness of the Council's Legal Service.

Administration:

- Oversight of the effectiveness of the Council's Administration Service.

Information Technology:

- Oversight of the provision of Information Services.
- Co-ordination and implementation of the Council's electronic government strategy.

Community Planning

- Subject to the role of the Council in adopting the Community Strategy, Crime and Disorder Reduction Strategy, Corporate Plan and Local Agenda 21 Strategy to develop such policies and to discharge the Council's powers, duties and responsibilities thereunder.
- To develop and be a member of partnerships at neighbourhood and parish, district, sub-regional, county and regional levels.
- To promote the economic, social and environmental well-being of the area.

Diversity Issues

- To oversee the development of and to implement the Council's Corporate Race, Diversity and Equal Opportunities Policies.
- To oversee the development of and implement a Council Standard for Equal Opportunities.
- To oversee the development of action plans for each Service showing which level and how that Service will strive to achieve the various levels of the Council Standard.

Ethnic Minorities:

- The development of a Corporate Equal Opportunities Policy, with particular reference to the encouragement of equal opportunity for persons from minority ethnic communities, the reduction of racial disadvantage and the eradication of racial discrimination.
- To establish effective consultation proceedings between the Council and the local minority ethnic communities in order to ensure that Council facilities, services and resources are equally accessible to all members of ethnic and racial groups.

Emergency Planning

- To oversee the exercise of the Council's emergency planning functions.

Grant Aid and Assistance

- Provision of grants to local non-housing voluntary organisations.
- Administration of the local compact of voluntary organisations.

Tourism:

- Promotion and marketing of the District as a tourist area.
- Assistance to, development of and liaison with the tourism industry, encouraging their greater involvement in promotion of the area.
- Provision, development and maintenance of tourist facilities and attractions including the foreshore, boating pools, Stone Jetty, shelters, flagstaffs, the Promenade.
- Promotion of conferences within the District.
- Provision of services for visitors including information and booking services.
- Liaison with and support for Williamson Park Limited.

Arts and Events:

- Administration of an arts policy for the District.
- Promotion, development and operation of events and festivals of an artistic, cultural, entertainment or other nature.
- The Platform and The Dome.
- Provision of facilities, premises and services to support and assist local artistic activity, both professional and amateur.
- Provision of financial and other support to the arts.

Regeneration:

- Development of SRB Partnership and European and Regional Regeneration Programmes.
- Promotion and marketing of the District.
- Development of sites and premises for industry and commerce.
- Reclamation of derelict land.
- Provision of financial assistance to new and existing businesses.
- Provision of advice and assistance to current or potential employers.
- Review and development of the skills and abilities of the local workforce.

- The development of Lancaster and Morecambe Centres and the rural areas.
- Consideration and implementation of measures for the improvement, development and maintenance of an attractive, commercially viable environment in Lancaster and Morecambe Centre.
- Formulation of proposals for further development of the Lancaster and Morecambe Centres including, where appropriate, the acquisition, management and disposal of property within the relevant areas.
- Town Centre Management.

Leisure:

- Provision, development and maintenance of facilities and services for sport and recreation, including:
 - Swimming pools.
 - Sports halls and leisure centres.
 - Playgrounds and playing fields.
 - Parks, gardens and open spaces (excluding Williamson Park).
 - Picnic sites.
 - Allotments.
 - Community centres and village halls.

Museums:

Through participation in the Museums' Partnership Scheme:-

- the provision of the Council's museums.
- the maintenance and development of the Council's collections of artistic, historic, scientific, cultural, archaeological and other exhibits.
- the provision of financial and other assistance towards research, studies and investigations concerning the history, heritage and culture of the District.

Planning:

- Preparation of local plans and policies on all planning matters including development control.
- Matters relating to planning and building control which do not fall within the terms of reference of the Planning and Highway Regulatory Committee.
- Promotion, development and management of sites identified for environmental improvements and nature conservation.

Council Housing:

- Housing Revenue Account, i.e. provision, development and management of Council dwellings.
- Provision of gypsy caravan sites.
- Council house sales.
- Waiting list for Council dwellings.
- Homelessness.
- To encourage the involvement of tenants in the management of the Council's dwellings.
- Nomination of tenants to Housing Associations and associated advice to Housing Associations on their developments, house types, etc.

Environmental Health and Strategic Housing:

Strategic Housing

- To deliver the housing strategy for submission to Council.
- Area improvement initiatives.
- Renovation and insulation grants.
- Housing loans.
- Housing Associations.
- Clearance and improvement of unfit and other sub-standard dwellings.
- Houses in multiple occupation.
- Harassment and protection from eviction.
- Abatement of overcrowding.
- Encouragement of private sector housing development and renewal and development of partnerships.
- Provision of grants to housing related voluntary organisations.

Environmental Health

- The prevention of pollution and nuisances, except for the issuing of any consent or licence or any regulatory or enforcement notice, order or other such action, which is within the terms of reference of the Licensing Regulatory Committee.
- The enforcement of legislation and standards relating to food and safety and health and safety.
- The protection and enhancement of public health and animal health.
- Health & safety in the Council's capacity as employer.
- The control of pests.
- Port health.
- The provision and maintenance of cemeteries.
- Health promotion and education.
- Monitoring and investigation of infectious diseases.
- Monitoring of water and the improvement of private water supplies.
- Monitoring of air quality.
- Contaminated land strategy implementation.
- Overseeing implementation of Street Warden Scheme.

Transportation and Coastal Protection:

- The Council's function under the Highways Partnership Scheme with the Highway Authority in relation to highways maintenance, traffic management and street lighting, except those matters within the terms of reference of the Planning and Highways Regulatory Committee.
- The Council's own functions in relation to highways and other roads, streets and paths, except those matters within the terms of reference of the Planning and Highway Regulatory Committee.
- Road safety.
- Provision of support and facilities for use in connection with public transport, including concessionary fares schemes.
- Provision, development and maintenance of car parking facilities with appropriate charging arrangements.
- Prevention of flooding through the provision and maintenance of sea and river defences.
- Provision and management of land drainage schemes.

City Contract Services:

- Overseeing of all direct services, i.e.
 - Highways and drainage.
 - Grounds maintenance.
 - Vehicle maintenance.
 - Refuse collection.
 - Street cleaning and waste management.
 - Public conveniences.
 - Building cleansing.
 - Vehicle fleet operation.
 - Leisure management.
 - Building maintenance.

DELEGATIONS TO COMMITTEES

Performance Review Committee

Composition: Leader and three Cabinet Members

Terms of Reference:

- Monitor progress against the Council's Improvement Plan. This would include any actions drawn from any Best Value Reviews, CPA inspections, DA management letter, other inspections, IDeA reviews, etc.
- Monitor performance against the 21 high level priorities included in the Council's Corporate Plan. This would be done against a list of key Cabinet PIs and also provide Cabinet with details of how the Council was contributing to the Community Strategy targets.
- Reporting back to Cabinet from Cabinet representatives on our major partnerships.
- Monitoring of the Local Public Service Agreement targets.
- Monitor Management Team's implementation of executive decisions and any other tasks allocated to them.
- Provide a forum for developing and monitoring the Forward Plan.
- Provide a forum to review individual Service performance difficulties.
- Consider any performance matter referred from Star Chamber.
- Corporate financial monitoring and review of the Medium Term Financial Strategy.

Grants Committee

Composition: Leader and three Cabinet Members

Terms of Reference:

- To determine any applications for grants to voluntary organisations.
- To determine applications to the Community Capital Fund.

Lancaster and Morecambe Markets Committee

Composition: Leader and three Cabinet Members

Terms of Reference:

To consider strategic issues regarding all Markets managed by the City Council, in particular issues raised as part of the Best Value Review of Assets and Facilities Action Plan.

DELEGATIONS TO OFFICERS

The following functions are delegated to the Officers of the City Council subject to each and every delegation being undertaken within:

- The policies and strategies of the Council within the policy framework; and
- Any legal constraints imposed on the Council; and
- The financial provision authorised by the Cabinet and the Council
- Any other relevant section of the Constitution.

IN GENERAL

To the Chief Executive

To accept on behalf of the Council, tenders, except in those cases where the amount of the tender for the supply of goods or services proposed to be accepted exceeds the estimated provision for that purpose subject to the Chief Executive having no discretion to accept any tender which has been received after the prescribed time for receipt. (Contract Procedure Rule 18)

To sanction emergency action, as set out in the rules of procedure for urgent business.

Implementation of the Council's policies and strategies where they are not specifically allocated within the Council's Constitution including the right to exercise any powers hereby granted to other Corporate Directors or Service Heads. (This is a reserve power to be exercised in the absence or default of the Corporate Director or Service Head concerned.)

To the Chief Executive or any Corporate Director

To attest the affixing of the Common Seal of the Council to authorised documents. See Article 14.05.

To each Corporate Director

The right to exercise in the absence of the Chief Executive any of the powers delegated to the Chief Executive. The right to exercise any powers hereby delegated to those Service Heads who are responsible to that Corporate Director. (This is a reserve power to be exercised in the absence or default of the Service Head concerned.)

To all Corporate Directors and Service Heads

To seek planning permission for the Council's own development, or development on Council-owned land, where the scheme for that development has been approved by the Cabinet.

The management of the Service and staff employed in the Service in accordance with the budget and the policies of the Council for the time being applicable to the work of the Service and any decisions made by the Cabinet.

The award of a maximum of 2 merit increments for examination success and in other appropriate cases provided that the award is within the approved Establishment grade of the postholder in question.

To take all relevant action required to implement decisions made by the Council, the Cabinet or Committees except where that action is specifically delegated to another Corporate Director or Service Head.

To the Head of Legal Services

In consultation as appropriate with the Chief Executive, Corporate Directors and Service Heads:

To respond to all proceedings of a legal or quasi-legal nature issued against the Council.

To issue civil and criminal proceedings in all cases where it is appropriate, within the policy of the Council and the Cabinet, in the interest of the Council and in the public interest to do so.

To prepare any documentation necessary to bring into effect a decision of the Council, the Cabinet or a Committee.

To all Service Heads and the holders of Post Nos CH0010, CH0015, CH0020, CH0050, CH0090, CH0100, CH120, CH121, CC0001, EV0013 and EV0014

To sign Statements of Truth under the Civil Procedure Rules 1998 on behalf of the Council.

HOUSING

To the Chief Council Housing Officer

The management of existing Council-owned dwellings, both HRA and non-HRA, including the letting of houses in accordance with the points scheme, the keeping of a register of housing applications and the letting of Council garages.

In conjunction with the Head of Legal Services the recovery of possession of Council dwellings and arrears of rent.

The appropriation of former tenant credits.

The functions of the Council relating to homelessness and housing advice.

Management of the Council's Central Control service and dispersed alarm network.

Production of the statutory Annual Report to Tenants and other similar publications.

Management of the Housing Capital Programme.

Production of Planned Maintenance Programmes for the Council's Housing Stock.

Nomination of tenants to Housing Associations.

Management of Mellishaw Park Caravan Site.

To the Head of Property Services

The sale of Council houses.

The letting of Council estate shops.

To the Head of Health and Strategic Housing

Home Loss and Disturbance Payments.

The operation of the scheme for mortgage loans, including maturity loans, for acquisition and improvement and, in conjunction with the Head of Legal Services, the recovery of possession of mortgaged premises in arrears of mortgage repayments.

Loans and grants to Housing Associations.

The determination of applications in respect of grants for the improvement and repair of dwellings; housings in multiple occupation and common parts; the provision of dwellings by conversions; and the provision of facilities for the disabled within dwellings and common parts.

The waiving or relaxation of conditions and requirements with regard to grants issued under 2.2.4.

The operation of Renewal Area provisions.

The service and, in conjunction with the Head of Legal Services, the enforcement of statutory notices relating to unfit, defective or otherwise substandard dwellings.

The service and enforcement of statutory notices, Directions and Control Orders relating to unfit, defective or otherwise substandard houses in multiple occupation and the registration of such premises.

In consultation with the Head of Legal Services, the institution of legal proceedings for unlawful eviction or harassment.

The inspection of buildings and structures and the taking of such action as may be necessary to protect the occupants and the public.

The control of and all action necessary to secure the abatement of overcrowding in dwellings and houses in multiple occupation.

Action to secure the restoration or continuation of the supply of water, gas or electricity to tenanted property and the recovery of all expenditure incurred.

To consider representations made under the provisions of the Housing (Enforcement Procedures for Houses in Multiple Occupation) Order 1997.

To the Head of Health and Strategic Housing and to any staff designated to him/her in writing:-

Authority to issue "Minded to Take Action" notices under the Housing (Enforcement Procedures for Houses in Multiple Occupation) Order 1997.

Authority to enter, examine and inspect premises within the Lancaster District.

PLANNING

To the Head of Planning and Building Control

To determine applications for grant aid in respect of structural works to historic buildings and other grant aid schemes, subject to a report of the determinations being made to a subsequent meeting.

To make observations on proposed development in the District of adjoining Local Authorities.

To serve Notices and to enforce the provisions relating to dangerous and dilapidated buildings and structures.

To determine applications under the provisions of the Building Regulations and allied legislation, including the undertaking of requisite enforcement action.

ECONOMIC DEVELOPMENT & TOURISM

To the Corporate Director (Regeneration)

In consultation with the Cabinet member with responsibility for Regeneration the authority for approval of grants and other financial assistance to businesses and community enterprises, in accordance with the eligibility criteria and other terms and conditions applicable to the relevant approved grant aid schemes.

To the Head of Economic Development and Tourism

Promotion and marketing of Lancaster District for economic development purposes.

In consultation with the Cabinet Member with special responsibility for Regeneration the implementation of training and enterprise projects through the BEST Centres, including submission of bids for funding, negotiation of contractual arrangements with external funders, and recruitment of temporary project workers.

Promotion of the District, either as a whole or in district parts, conference facilities, special events and amenities.

Management of Lancaster and Morecambe Tourist Information Centres.

To the Head of Property Services

In respect of concessions, authority to let a contract to the highest tenderer who meets the full requirements of the concession specification.

To the Head of Arts & Events

After consultation with the Cabinet, authority to organise any special event within an expenditure limit of £1,000.

ENVIRONMENTAL & PUBLIC SERVICES

To the Corporate Director (Community Services)

To collaborate with the Police to seek Anti-Social Behaviour Orders in appropriate cases.

To the Head of Health and Strategic Housing

The inspection and registration of premises and the enforcement of provisions, including the service of statutory Notices relating to Public Health, Food Safety and Health and Safety, Shops, Consumer Protection, Atmospheric Pollution, Noise Control, Environmental Protection, Rodent and Pest Control and Port Health.

Exhumation – subject to Home Office Licence or Diocesan Faculty – whichever is appropriate.

To the Head of Health and Strategic Housing and any staff designated by him/her in writing:-

The service and signing of notices, powers of entry, seizure of goods or materials, procurement of samples, removal of abandoned vehicles and other things and to act as Inspectors under the following legislation:

- Public Health Acts 1936 and 1961
- Prevention of Damage by Pests Act 1949
- Animal Boarding Establishments Act 1963
- Caravan Sites and Control of Development Act 1960
- Caravan Sites Act 1968
- Control of Pollution Act 1974
- Local Government (Miscellaneous Provisions) Acts 1976 and 1982
- Riding Establishments Act 1964 and 1970
- Dangerous Wild Animals 1970 and 1991
- Food and Environmental Protection Act 1985
- National Assistance Act 1948
- Building Act 1984
- County of Lancashire Act 1984
- Public Health (Control of Disease) Act 1984
- Environmental Protection Act 1990
- Food Safety Act 1990
- Dangerous Dogs Act 1991
- Water Industry Act 1991
- Clean Air Act 1993
- Sunday Trading Act 1994
- The Environment Act 1995
- Dogs (Fouling of Land) Act 1996

The issuing of Fixed Penalty Notices under Section 4 of the Dogs (Fouling of Land) Act 1996.

The power of entry and authorisation to carry out such inspections, measurements and tests on land or vessels, as are appropriate, under Section 56 of the Clean Air Act 1993.

Authorisation to issue fixed penalty notices for litter under Section 88 of the Environmental Protection Act 1990.

The power of entry to investigate statutory nuisances under Schedule 3 of the Environmental Protection Act 1990

The power of entry with regard to private water supplies under Section 84(3) of the Water Industry Act 1991.

Appointment of Authorised Officer under Section 5(6) of the Food Safety Act 1990

Appointment of Proper Officer under Public Health (Control of disease) Act 1984 and regulations made thereunder, for duties under Public Health (Infectious Diseases) Regulations 1988 and duties under National Assistance Act 1948.

To the Head of City Contract Services

To manage the Council's direct service provision in relation to cleansing services.

TRANSPORTATION AND COASTAL PROTECTION

To the Head of Engineering Services

In accordance with the Highways Partnership Scheme with the Highways Authority, maintenance and management of roads and street lighting within the prescribed area.

Maintenance of other highways, roads, streets, footpaths and cycleways for which the Council is responsible under relevant legislation.

Operation of Advance Payments Code and Section 38 of Highways Act 1980 relating to provision of highways in private development and any amending legislation.

The maintenance and management of City Council owned car parks.

The naming of streets and numbering of properties.

Maintenance and management of coastal and river defences for which the Council is responsible.

Decisions relating to Traffic Regulation Orders other than where objections are raised.

To the Head of Administration Services

To undertake the necessary consultations and give public notice of Traffic Regulation Orders.

To make any necessary temporary Traffic Orders under the Road Traffic (Temporary Restrictions) Act 1991.

To make Orders under the Town Police Clauses Act 1847 where there are no objections to the proposed closure from either the Head of Engineering Services or the Police and to inform Ward Councillors of any such closures.

LEISURE

To the Chief Leisure Officer

Management of the Council's sports and leisure facilities, including the letting of the Council's sports pitches.

To act as the Council's Authorised Officer in all matters relating to Client responsibility for Leisure Management Contracts and Grounds Maintenance Contracts.

To represent the Council at local, regional and national levels on various voluntary and statutory agencies relating to Leisure Services.

To the Head of City Contract Services

To manage the Council's direct service provision in relation to grounds maintenance of leisure facilities.

To the Head of Property Services

In respect of concessions, authority to let a contract to the highest tenderer who meets the full requirements of the concession specification.

FINANCE

To the Head of Financial Services

Revenues & Benefits

To maintain the Collection Fund and, in conjunction with the Chief Revenues Officer, appropriate systems for the collection of the appropriate local taxes and National Non-Domestic Rates.

To the Chief Revenues Officer

In respect of Community Charge:

Duty to administer any residual Community Charge matters.

In respect of National Non-Domestic Rates

To exercise all the Council's statutory functions, powers and responsibilities relating to the administration and enforcement of non-domestic rates under the Local Government Finance Act 1998 and all Regulations thereunder.

In particular to act as the "billing authority" and represent the billing authority in all matters except:-

- the award of discretionary rate relief (Section 47 Local Government Finance Act 1998;
- the reduction/remission of rates on the grounds of hardship (Section 49 Local Government Finance Act 1988).

In respect of Council Tax.

Determination of chargeable dwellings (Section 16(5) and 16(6) Local Government Finance Act 1992).

Determination of hierarchical liability (Section 5.6(2)(a) to (4) Local Government Finance Act 1992).

To serve notices requesting information required to establish liability (Statutory Instrument 1992/613).

To impose penalties and/or quash them (Schedule 3 Local Government Finance Act 1992).

To take reasonable steps in each financial year to identify exemptions (Statutory Instrument 1992/613) and issue notices accordingly.

To issue/withdrawal of completion notices and associated notices (Local Government Finance Act 1988 and 1992).

To take reasonable steps to ascertain entitlement tot discounts (Statutory Instrument 1992/613) and issue notices accordingly.

Determination of reductions in respect of dwellings where disabled people live (Statutory Instrument 1992/554 as amended).

The administration and application of the Council Tax Benefit Scheme (Social Security Contributions and Benefits Act 1992 and Local Government Finance Act 1992).

The billing and collection of Council Tax in accordance with the law (Local Government Finance Act 1992 and associated Statutory Instruments).

To issue reminders/final notices as they feels appropriate (Statutory Instrument 1992/613).

To take summary proceedings for recovery of outstanding amounts (Statutory Instrument 1992/613) as appropriate.

To exercise distraint and/or instruct agents approved by the Council to act on its behalf (Statutory Instrument 1992/613).

To utilise the powers available to the Council to recover outstanding amounts as appropriate (Statutory Instrument 1992/613).

To execute arrest warrants and/or instruct agents approved by the Council to act on its behalf (Statutory Instrument 1992/613).

Response to appeals under Section 16 Local Government Finance Act 1992.

To represent the Council at valuation tribunals (Statutory Instrument 1993/290).

To write-off irrecoverable debts up to the cash limit authorised by Standing Orders.

In respect of the Housing Benefit and Council Tax Benefit Schemes.

The general operation and administration of the Schemes.

The exercise of the discretion as to whether landlords are paid direct.

The determination of applications for exceptional hardship and the award of additional benefit in appropriate cases, including those from claimants under the age of twenty-five.

The determination of the cases of false representation for obtaining benefit which are to be the subject of the provisions of Section 15 of the Social Security Administration (Fraud) Act 1997.

To the Chief Revenues Officer and any staff designated by him/her in writing.

To represent the Council in Recovery Proceedings in the Magistrates' Court.

The role of “designated Officer” for the purpose of classifying fraudulent overpayments under the Income-Related Benefit (Subsidy to Authorities) Order 1998.

The role of “Fraud Officers” for the purpose of investigating fraud under the Income-Related (Subsidy to Authorities) Order 1998.

To the Head of Information Services and any staff designated by him/her in writing.

The signing of Certificates under Regulation 54(3) of the Council Tax Administration and Enforcement Regulations 1992 and Regulation 21(5) of the Non-domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989.

FINANCIAL SERVICES

To the Head of Financial Services

To manage internal capital provisions and reserves and to supervise the investment of Council monies in accordance with the approved Treasury Management Strategy.

PERSONNEL

To the Chief Executive, Corporate Directors and Service Heads

To authorise attendance of staff at appropriate courses in furtherance of their Local Government careers and the granting of financial assistance in accordance with the National Scheme of Conditions of Services.

To award merit increments within the approved grade of the post in appropriate circumstances.

PROPERTY

To the Head of Property Services

Designation as the Council’s Corporate Property Officer with responsibility for the Council’s Asset Management Plan.

To manage and maintain, inclusive of lettings, the assignment and surrender of leases and grant of easements, all property and land not under the control of any other Service Head.

To control and manage, inclusive of lettings and the assignment of leases, the Lancaster Market Hall, the Charter Market, the Assembly Rooms and Festival Market.

To negotiate acquisition and sales of Council assets subject to final approval by Members.

To manage and maintain all administrative and public buildings.

To manage and maintain the Council’s CCTV system.

To approve the sale or acquisition of land up to the value of £6,000, subject to consultation with Ward Councillors and that if those Councillors are not satisfied with the proposals that a report be submitted to Cabinet.

CITY CONTRACT SERVICES

To the Head of City Contract Services

To manage all the Council’s direct service provision.

SECTION 3 - LICENSING REGULATORY COMMITTEE

Composition: 13 Members of the Council on PR basis (7 Members with effect from May 2005), Chairman and Members of the Committee appointed by Council annually. Changes can be made by Council during the course of the year.

All Members of the Committee and Members attending as Substitutes must have attended a Member training session on both licensing procedures and racial awareness.

Terms of Reference:

1. To issue and enforce Hackney Carriage and Private Hire Vehicle, Operator and Driver licences under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
2. To issue and enforce Public Entertainment, Theatre and Cinema licences under the Local Government (Miscellaneous Provisions) Act 1982, Cinema Act 1985 and Theatres Act 1968 and to issue and enforce registration under the Council's Doorstaff Registration Scheme.
3. To issue licences under the Caravan Sites and Control of Development Act 1960.
4. To issue licences and registration under the Betting Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976.
5. To issue licences in respect of sex shops and sex cinemas under the Local Government (Miscellaneous Provisions) Act 1982.
6. To issue licences in respect of hypnotism under the Hypnotism Act 1952.
7. To issue licences and registrations relating to acupuncture, tattooing, ear-piercing and electrolysis under the Local Government (Miscellaneous Provisions) Act 1982.
8. To issue licences relating to pleasure boats and pleasure vessels under the Public Health Acts Amendment Act 1907.
9. To issue Street Trading licences under the Local Government (Miscellaneous Provisions) Act 1982.
10. To grant permissions under Section 115E and publish Notices under Section 115G of the Highways Act 1980 for the provision of services, amenities, recreation and refreshment facilities on pedestrianised areas.
11. To issue licences for late night refreshment houses under the Late Night Refreshment Houses Act 1969.
12. Power to make Closing Orders with respect to take-away food shops.
13. To issue licences under the Game Act 1831 and the Game Licensing Act 1860 and the Local Government Act 1972.
14. To register and license premises for the preparation of food under the Food Safety Act 1990.
15. To issue licences under the Scrap Metal Dealers Act 1964.

16. To issue licences and registrations under the Breeding of Dogs Act 1973, the Breeding and Sale of Dogs (Welfare) Act 1999, the Pet Animals Act 1951, Animal Boarding Establishments Act 1963, Riding Establishments Acts 1964 and 1970, Zoo Licensing Act 1981, Dangerous Wild Animals Act 1976, and Slaughterhouses Act 1974.
17. To issue permits for street collections and house to house collections.
18. To issue consents for the operation of a loudspeaker under the Noise and Statutory Nuisance Act 1993.
19. To issue registrations under the Motor Salvage Operators Regulations 2002.
20. To approve meat product premises.
21. To approve premises for the production of minced meat or meat preparations.
22. To approve dairy establishments.
23. To approve egg product establishments.
24. To issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.
25. To approve fish products premises, dispatch or purification centres, to register fishing vessels on board which shrimps or molluscs are cooked, to approve factory vessels and fishery product establishments, and to register auction and wholesale markets (Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
26. To register and keep a register of food business premises.
27. To issue and enforce registrations in respect of second-hand goods dealers under the County of Lancashire Act 1984.
28. To discharge any functions relating to contaminated land, control of pollution, management of air quality or statutory nuisance which involve the issuing of any consent or licence, or any regulatory or enforcement notice, order or other such action .
29. To discharge enforcement functions under Part 1 of the Health and Safety at Work Act 1974.
30. To set the levels of any fee for an approval, licence, consent, permit or registration which is the responsibility of the Committee.
31. To impose any condition, limitation or other restriction on any approval, consent, licence, permission or registration granted, which is the responsibility of the Committee, and to determine any other terms to which such approval, consent, licence, permission or registration is subject.
32. To determine whether and in what manner to enforce any failure to comply with any approval, consent, licence, permission or registration which is the responsibility of the Committee, or any condition, limitation or term thereof.
33. To amend, vary, modify or revoke any approval, consent, licence, permission or registration which is the responsibility of the Committee or any condition, limitation or term thereof.

DELEGATIONS TO OFFICERS

To the Chief Executive

To sanction emergency action, as set out in the rules of procedure for urgent business.

To the Head of Legal Services:

- To grant, transfer or renew any Licence, Registration or Permit or other application in respect of a matter within the terms of reference of the Licensing Regulatory Committee, except where any objection or adverse comment has been received or a Member of the Committee has requested that the matter be referred to the Committee.
- To serve Notices under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- To commence criminal proceedings in order to enforce any failure to comply with an approval, consent, licence, permission or registration or any condition, limitation or term thereof, or any other contravention in relation to a matter within the terms of reference of the Licensing Regulatory Committee.

To the Head of Legal Services and any staff designated by him/her in writing:-

- To suspend Drivers' and Operators' Licences under Sections 61 and 62 of the Local Government (Miscellaneous Provisions) Act 1976.
- To award points under the Hackney Carriage and Private Hire Code of Conduct and Penalty Points Scheme.
- To enter premises licensed for public entertainment under Paragraph 14 of Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1982.
- To suspend Hackney Carriage and Private Hire Vehicle Licences under Sections 60 and 68 of the Local Government (Miscellaneous Provisions) Act 1976.

To the Head of Health and Strategic Housing:

- In consultation with the Head of Legal Services, where appropriate, the inspection and registration of premises and the enforcement of provisions, including the service of statutory notices relating to legislation within the terms of reference of the Licensing Regulatory Committee.
- The approval of applications to determine satisfactory chimney heights under the provisions of Clean Air Legislation.
- The issue of authorisation under the Environmental Protection Act 1990, Part I.
- The issue of licences, registrations and consents under the Food Safety Act 1990, the Noise and Statutory Nuisance Act 1993, Meat Products (Hygiene) Regulations 1994, Minced Meat and Meat Preparations (Hygiene) Regulations 1995, Dairy Products (Hygiene) Regulations 1995, Egg Products Regulations 1993, Food Safety (General Food Hygiene) Regulations 1995, Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 and the Food Premises (Registration) Regulations 1991.

To the Head of Health and Strategic Housing and any staff designated by him/her in writing:-

- The service and signing of Notices, powers of entry and inspection under the Pet Animals Act 1951, Caravan Sites and Control of Development Act 1960, Scrap Metal Dealers Act 1964, Breeding of Dogs Act 1973, Control of Pollution Act 1974, Local Government (Miscellaneous Provisions) Acts 1976 and 1982, Health and Safety at Work Act Etc Act 1974 and Regulations thereunder, Zoo Licensing Act 1981, County of Lancashire Act 1984, Environmental Protection Act 1990, Food Safety Act 1990, Noise and Statutory Nuisance Act 1993 and the Environment Act 1995.
- The power of entry and authorisation to carry out such inspections, measurements and tests on land or vessels as are appropriate under Section 56 of the Clean Air Act 1993.
- The power of entry to investigate and take enforcement action in respect of statutory nuisance under Schedule 3 of the Environmental Protection Act 1990.
- The power of entry under the Caravan Sites and Control of Development Act 1960.
- Appointment under Section 19 and power of entry, inspection and sampling under Section 20 of the Health and Safety at Work Etc Act 1974 and Regulations thereunder.
- The power of entry to investigate statutory nuisances under Schedule 3 of the Environmental Protection Act 1990.

SECTION 4 - LICENSING ACT COMMITTEE

Composition: 15 Members of the Council on PR basis, Chairman and Members of the Committee appointed annually. Changes can be made by Council during the course of the year.

This is a statutory committee established under the Licensing Act 2003, and not subject to the provisions of the Local Government Act 1972.

Substitutes are not therefore permitted.

All Members of the Committee must have attended a Member training session on the Licensing Act 2003

Terms of Reference:

To discharge all the functions of the Council as licensing authority under the Licensing Act 2003, with the exception of the functions under Section 5 of the Act relating to the preparation, determination, review and publishing of the statement of licensing policy, which as a matter of law are not to be carried out by the Committee, and which are functions of the full Council..

The functions of the Committee will include:

- (a) the making of all determinations and decisions in respect of applications, reviews, objections and representations under the Act;
- (b) in accordance with Government Guidance, receiving reports from time to time on issues relevant to the Committee's considerations, for example the needs of the local tourist economy and the employment situation in the area;
- (c) in accordance with Government Guidance reporting to other relevant Committees, for example the Planning Committee, on the situation regarding licensed premises in the area; and
- (d) any other matters which are licensing functions for the purposes of the Licensing Act 2003.

In accordance with Section 9 of the Act, the Licensing Act Committee is empowered to establish one or more sub-committees consisting of three members of the Committee, and with effect from 7 February 2005, the Committee will have the power to arrange for the discharge of any of its functions by a sub-committee or, in certain circumstances, by an officer.

SECTION 5 - PLANNING AND HIGHWAYS REGULATORY COMMITTEE

Composition: 20 Members of the Council on PR basis, Chairman and Members of the Committee appointed by Council annually. Changes can be made by Council during the course of the year.

All Members of the Committee and Members attending as substitute Members must have attended the relevant Member training sessions on planning procedures.

Terms of Reference:

1. To determine applications for planning permission and to carry out the duties relating to the making of such determinations under the Town and Country Planning Act 1990 and Regulations and Directions thereunder.
2. To determine applications to develop land without compliance with conditions previously attached.
3. To grant planning permission for development already carried out.
4. To decline to determine application for planning permission.
5. To determine applications for planning permission made by a Local Authority, alone or jointly with another person.
6. To make determinations, give approvals and agree other matters relating to the exercise of permitted development rights.
7. To enter into agreements regulating the development or use of land.
8. To issue certificates of existing or proposed lawful use or development.
9. To serve a Completion Notice.
10. To grant consents for the display of advertisements.
11. To authorise entry onto land.
12. To require the discontinuance of a use of land.
13. To serve a Planning Contravention Notice, Breach of Condition Notice, Enforcement Notice or Stop Notice.
14. To apply for injunctions restraining a breach of planning control.
15. To determine applications for Hazardous Substance Consent and related powers.
16. To require proper maintenance of land.
17. To determine applications for Listed Building Consent and related powers and duties.
18. To determine application for Conservation Area Consent and related powers and duties.
19. To serve a Building Preservation Notice and related powers.

20. To issue Enforcement Notices in relation to demolition of unlisted buildings in conservation areas.
21. To acquire a Listed Building in need of repair and to serve a Repairs Notice.
22. To apply for an injunction in relation to a Listed Building.
23. To execute urgent works in respect of Listed Buildings and buildings in conservation areas.
24. To exercise powers for the preservation of trees
25. To exercise powers relating to the protection of important hedgerows.
26. To exercise powers to make Limestone Pavement Orders.
27. Power to create footpaths and bridleways (Sections 25 and 26 of the Highways Act 1980)
28. To authorise erection of stiles etc on footpaths or bridleways (Section 147).
29. Power to stop up footpaths and bridleways (Section 118).
30. Power to divert footpaths and bridleways (Section 119).
31. Power to determine application for Public Path Extinguishment Order (Sections 118ZA and 118C(2) of the Highways Act 1980).
32. Power to make a Rail Crossing Extinguishment Order (Section 118A of the Highways Act 1980).
33. Power to make a Public Path Diversion Order (Sections 119ZA and 119C(4) of the Highways Act 1980).
34. Power to make a Rail Crossing Diversion Order (Section 119A of the Highways Act 1980).
35. Duty to keep register with respect to applications under Sections 118AZ, 118C, 119ZA and 119C of the Highways Act 1980.
36. Power to decline to determine applications (Section 121C of the Highways Act 1980).
37. Power relating to removal of things so deposited on highways, as to be a nuisance (Section 149).
38. To permit deposit of builders' skips on highway (Section 139).
39. To license planting, retention and maintenance of trees etc in part of highway (Section 142).
40. To license works in relation to buildings etc which obstruct the highway (Section 169).
41. Power to consent to temporary deposits on excavations in streets (Section 171).
42. Power to dispense with obligation to erect hoarding or fence (Section 172).
43. Power to consent to construction of cellars etc under streets (Section 179).
44. Power to consent to the making of openings into cellars etc under streets and pavement lights and ventilators (Section 180).

45. Power to extinguish certain public rights of way (Section 32 of the Acquisition of Land Act 1981)
46. Power to extinguish public right of way over land acquired for clearance (Section 294 of the Housing Act 1981).
47. Power to authorise stopping-up or diversion of footpath or bridleway (Section 257 of the Town and Country Planning Act 1990).
48. Power to extinguish public rights of way over land held for planning purposes (Section 258 of the Town and Country Planning Act 1990).

DELEGATIONS TO OFFICERS

To the Chief Executive

To sanction emergency action, as set out in the rules of procedure for urgent business.

To the Head of Planning and Building Control:

- In conjunction with the Head of Legal Services and other appropriate Officers, to contest planning appeals regarding:
 - The refusal of planning permission or the imposition of conditions;
 - The service of Enforcement, Planning Contravention and Breach of Condition notices;
 - Purchase Notices; and
 - Other planning matters subject to appeal procedure.
- The serving of Notices for the preservation of Listed Buildings.
- The making and enforcing of Tree Preservation Orders and related provisions.
- In consultation with the Head of Legal Services, enforcement action, where necessary, in order to assist in the speedy enforcement of policy or in respect of non-compliance with conditions attached to planning permission, subject to a report being made to the Committee at a subsequent meeting.
- In consultation with other appropriate Officers of the Council to determine applications for Certificates of Lawful Use or Lawful Development under the provisions of Sections 191-194 of the Town & Country Planning Act 1990, or any statutory modification thereof.
- To accept and agree amendments to submitted planning applications where considered appropriate.
- In consultation with the Head of Legal Services, to decline to determine applications for planning permission pursuant to Section 70A of the 1990 Act or any statutory modification thereof.
- To carry out such consultations and/or advertising of planning and other like applications exercising any necessary discretion or judgement in connection with such matters.

- To determine applications under the provisions of Parts III and VIII of the 1990 Act and Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990, having regard to the approved Development Plan and any relevant approved statement of policy, including proposals affecting Listed Buildings or in Conservation Areas, EXCEPT for the following categories of development:
 - i. Applications in the major category which are recommended for approval and are the subject of any objections.
 - ii. Applications recommended for approval which are departures from the Development Plan.
 - iii. Applications made by the City Council or major County Council applications.
 - iv. Applications by Members of the Council, Offices, and other parties which probity rules indicate that a Committee decision is required.
 - v. Any application which the Head of Planning and Building control considers should be determined by the Committee.
 - vi. Any application which a Member of the Council asks to be referred to the Committee.
- Authority to waive the charge for the making of Revocation and Modification Orders in appropriate cases.

To the Head of Planning and Building Control Services and any staff designated by him/her in writing.

- Authority to issue a screening opinion or a scoping opinion under the provisions of the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
- The powers of entry set out in Sections 196A, 196B, 196C 324 and 325 of the Town & Country Planning Act 1990 (as amended) and Sections 88, 88A and 88B of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).
- The powers of entry set out in Sections 324 and 325 of the Town & Country Planning Act 1990 (as amended).

To the Head of Legal Services:

- In consultation with the Head of Planning and Building Control, to serve Enforcement Notices, Planning Contravention Notices, Breach of Condition Notices and Notices under Section 215 of the Town and Country Planning Act 1990.
- To serve Notices under Section 330 of the Town and Country Planning Act 1990.

To the Head of Engineering Services:

- The service of statutory notices and other enforcement of highway matters within the terms of reference of the Planning and Highways Regulatory Committee.

SECTION 6 – PERSONNEL COMMITTEE

Composition: 7 Members of the Council on PR basis, Chairman and Members of the Committee appointed by Council annually, to include at least one Member of the Cabinet. Changes can be made by Council during the course of the year. Where the Committee meets to appoint a Corporate Director, the Committee will comprise 13 Members on a PR basis, that is, the 7 Members plus 6 further Members appointed for this particular purpose.

All Members of the Committee and Members attending as Substitutes, must have attended a Member training session on racial awareness.

Terms of Reference:

- 1 Control and development of the conditions of service of Council employees.
- 2 Control of the Council's Establishment.
- 3 Determining the terms and conditions on which staff are to be appointed.
- 4 Appointment of Corporate Directors and Service Heads.
- 5 Acting as the "Investigating Committee" referred to in the JNC Conditions of Service.
- 6 Determining re-grading applications.
- 7 Developing and implementing all personnel policies and procedures.
- 8 Consultation with the workforce as the employer representative on the Joint Consultative Committee.
- 9 Consideration and response to consultation requests in respect of national pay negotiations

DELEGATIONS TO OFFICERS

To the Chief Executive

To sanction emergency action, as set out in the rules of procedure for urgent business.

To the Chief Executive, Corporate Directors and Heads of Services:

- To appoint staff below the level of Head of Service.

To the Chief Executive and Corporate Directors:

- To award honoraria.
- Regulation of Investigatory Powers Act.

SECTION 7 - APPEALS COMMITTEE

Composition: 7 Members of the Council on PR basis, Chairman and Members of the Committee appointed by Council annually, to include at least one Member of the Cabinet. Changes can be made by Council during the course of the year. Since the Committee will hear appeals from the Personnel Committee, there should be no overlapping membership.

All Members of the Committee and Members attending as Substitutes, must have attended a Member training session on racial awareness.

Terms of Reference:

1. To consider appeals against dismissal and in respect of grading and grievances by employees of the Council.
2. The determination of any other appeal against any decision made by or on behalf of the Council.

DELEGATIONS TO OFFICERS

To the Chief Executive

To sanction emergency action, as set out in the rules of procedure for urgent business.

To the Chief Executive, Corporate Directors and Heads of Service:

- To hear appeals in accordance with the Council's Disciplinary and Grievance Policies and Procedures.

SECTION 8 – AUDIT COMMITTEE

Composition: 7 Members of the Council on a PR basis, Chairman and Members of the Committee appointed by Council annually. Changes can be made by Council during the course of the year.

Terms of Reference

- 1 To review all matters relating to Internal and External Audit. It will have the right of access to all the information it considers necessary and can consult directly with Internal and External Auditors.
- 2 To monitor arrangements for discharging the Council's responsibilities for efficient and effective financial and operational resource management. In pursuing this aim, it will consider:-
 - the soundness, adequacy and application of controls;
 - compliance with policies, procedures and statutory requirements;
 - arrangements for safeguarding the Council's assets and interests;
 - the integrity and reliability of management information and financial records;
 - the economic, efficient and effective use of resources.
- 3 To approve the annual Statement of Accounts, income and expenditure and balance sheet or record of payments and receipts under the Account and Audit Regulations 1996.
- 4 To approve the Audit Plan of the External Auditor.
- 5 To monitor the External Auditor's progress with the Annual Plan, including his comments on the Best Value Performance Plan and the production of agreed outputs.
- 6 To approve Internal Audit strategic plans and the Annual Internal Audit Plan.
- 7 To monitor Internal Audits progress with the Annual Audit Plan, evaluating the effectiveness of Internal Audit and the use of Audit resources and recommending adjustments to the Audit Plan.
- 8 To review and comment upon liaison arrangements between Internal and External Audit with a view to optimising the effective deployment of Audit resources.
- 9 To evaluate the adequacy and effectiveness of the Council's financial and operational policies and procedures including financial and accounting management through discussions with the External Auditors, Internal Auditors and appropriate officers.
- 10 To receive and review the findings of both Internal and External Audit examinations and to ensure that management takes appropriate action to implement agreed recommendations and to remedy any internal accounting, organisational or operational control weaknesses identified.
- 11 To receive the annual Internal Audit Report and annual controls assurance statement.
- 12 To monitor the effectiveness of the Code of Corporate Governance.
- 13 To refer to Council any matters it shall see fit.
- 14 To consider any matters referred to it by the Monitoring Officer in accordance with Overview and Scrutiny Procedure Rule 12.

- 15 With the Monitoring Officer to monitor and review the operation of the Constitution to ensure the aims and principles of the Constitution are given full effect.
- 16 To consider and approve amendments to the Council's Financial Regulations and Contract Procedure Rules.
- 17 To consider and propose to Council any other amendments to the Constitution as necessary.
- 17 To act as the mechanism for Members of the Council to liaise with the Independent Remuneration Panel on the Members' Allowances Scheme.

DELEGATIONS TO OFFICERS

To the Chief Executive

To sanction emergency action, as set out in the rules of procedure for urgent business.

SECTION 9 – APPRAISAL PANEL

Composition **7 Members of the Council on a PR basis, Chairman and Members of the Committee to be appointed by Council annually. The Panel to include the Leader of the Council who cannot be Chairman. Changes can be made by Council during the course of the year.**

The Panel will be advised by the North West Employers' Organisation.

Terms of Reference

- 1 To agree annually a set of performance targets with the Chief Executive.
- 2 To monitor at regular intervals throughout the year the Chief Executive's performance against the annual targets.
- 3 To prepare reports to Council if appropriate.

SECTION 10 - STANDARDS COMMITTEE

Composition: 7 Members of the Council on PR basis, other than the Leader, and 4 Voting Co-optees, to include one Parish Councillor (selected by LAPTC) and 3 external independent representatives selected by open advertisement) appointed initially for a period of 3 years with an option to extend for a further 3 year period. Chairman to be one of the 3 independent representatives.

Terms of Reference:

The promotion and maintenance of high standards of conduct within the Council:

- To advise the Council on the adoption or revision of its Code of Conduct.
- To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice, changes in the law, guidance from the Standards Board and recommendations of case tribunals under Section 80 of the Local Government Act 2000.

To assist Members and Co-opted Members of the Authority:

- To ensure that all Members of the Council have access to training and the appropriate written guidance protocols in all aspects of the Member Code of Conduct, that this training is actively promoted and that Members are aware of the standards expected from local Councillors under the Code.

Other functions:

- Functions relating to standards of conduct of Members under any relevant provision of, or regulations made under, the Local Government Act 2000, including the granting of dispensations.
- To monitor and review as necessary the operation of the Council's Whistleblowing Policy.
- To review as necessary the Member/Officer Protocol and to make recommendations to the Council on proposed amendments to the Protocol.
- To consider reports referred from either the Monitoring Officer or the Ethical Standards Officer.
- To consider and make recommendations to the Council on any other matter that may be referred to the Standards Committee relating to the conduct of Members within the Authority.
- In accordance with Standards Board guidance, the Standards Committee will establish sub-committees from its full membership to deal with matters referred by the Standards Board for local determination. The membership of the Sub Committee will vary for each hearing and will be determined by the Monitoring Officer in consultation with the Chairman of the Standards Committee, on principles approved by the Standards Committee.

DELEGATIONS TO OFFICERS

To the Chief Executive

To sanction emergency action, as set out in the rules of procedure for urgent business.

Section 11 – OVERVIEW AND SCRUTINY COMMITTEE

Composition: 9 Members of the Council on a PR basis, (other than Cabinet Members). The Chairman and Vice-Chairman of the Overview and Scrutiny Committee will be appointed by Council. Only Non-Cabinet Councillors will be entitled to vote for Overview and Scrutiny Committee appointments. The Chairman and Vice-Chairman shall not be members of the largest political group that forms Cabinet. Changes can be made by Council during the course of the year.

Terms of Reference

The Overview and Scrutiny Committee has overall responsibility for the performance of all Overview and Scrutiny functions (under Local Government Act 2000) on behalf of the Council and ensuring its effectiveness.

1. To consider and call in decisions relating to the discharge of Cabinet functions before those are put into effect. The Overview and Scrutiny Committee can ask the Cabinet to reconsider any such decision (or, exceptionally, refer it to Council).
2. To consider decisions relating to the discharge of the Cabinet functions after they are put into effect.
3. To consider the Forward Plan and comment as appropriate to the decision-maker on Key Decisions (before they are taken by the Cabinet).
4. To conduct reviews of policy, services and aspects of services where there is an identifiable need, by itself or through setting up a Task Group.
5. To make suggestions on the development of policies and suggest new policies where appropriate.
6. To work with or appoint representatives to work with other local authorities and organisations to carry out joint scrutiny
7. To assist the Cabinet in the development of the Budget and Policy Framework.
8. To receive and consider recommendations from the Area Forums on issues requiring scrutiny and, where appropriate, establishing Task Groups, or referring to the Budget and Performance Panel, topics for scrutiny.
9. To receive and consider the Cabinet's work in response to external inspection and review reports. The Committee may refer a particular external review or inspection to the Budget and Performance Panel or Task Group for consideration.
10. To create Task Groups and set their Terms of Reference, in order to fulfil the Overview and Scrutiny requirements of the authority and the annual Overview and Scrutiny Work Programme.
11. To receive reports, presentations and updates in order to scrutinise the Cabinet's priorities for and its performance in the year.
12. To review and scrutinise the performance of the Cabinet, Cabinet Committees and appropriate Officers both in relation to individual decisions and over time.

13. To approve an annual Overview and Scrutiny Work Programme, including the power to request and receive the Work Programme of the Budget and Performance Panel and Task Groups it appoints so as to ensure that their time is effectively and efficiently utilised and that the potential for duplication of effort is minimised.
14. To produce a unified annual report for the whole scrutiny process, with sections provided by the Budget and Performance Panel and each of the Task Groups.
15. To allocate money from approved Overview and Scrutiny budgets for its own use, and upon request to the Budget and Performance Panel and Task Groups to support them in meeting their objectives and further the Overview and Scrutiny work programme and development.

Section 12 – BUDGET AND PERFORMANCE PANEL

Composition: 9 Members of the Council on a PR basis, (other than Cabinet Members), including at least one Member of the Overview and Scrutiny Committee. Only Non-Cabinet Councillors entitled to vote for Budget and Performance Panel appointments. The Chairman and Vice-Chairman of Budget and Performance Panel will be appointed by Council. The Chairman and Vice-Chairman shall not be members of the largest political group that forms Cabinet. Changes can be made by Council during the course of the year.

Terms of Reference

The Budget and Performance Panel would have responsibility for carrying out Overview and Scrutiny for the Council's Budget and Performance at both strategic and service level.

1. To scrutinise the Council's performance in relation to budgetary management and targets.
2. To assist and monitor the Cabinet in the continued development of a medium term budget strategy;
3. To review the management of resources made available to the Council and to scrutinise its financial management, treasury management, property and asset acquisition and disposal, capital programme and to evaluate the adequacy and effectiveness of the Council's financial and operational policies and procedures including financial and accounting management
4. To perform the overview and scrutiny function in relation to all of the Council's Corporate Performance and Best Value activity. In particular:
 - a) the effectiveness of the Council's major partnerships,
 - b) the implementation of Best Value Review Action Plans.
5. To recommend matters to be addressed for reviews, particularly with regard to Best Value.
6. To review the local authority's strategic performance and monitor year-on-year Performance Indicators, Key Performance Indicators and benchmarking.
7. To review the progress of Services in achieving the objectives of their Business Plans (Business Plan Monitoring).
8. To review and monitor external Service Level Agreements and other contractual arrangements that the Council has entered in to.

Schedule 1, Part 3 – Members of Lancaster City Council

NAME	ADDRESS	DESCRIPTION	WARD	HOME TELEPHONE
AIREY, James	12 Tram Lane, Kirkby Lonsdale, Carnforth, LA6 2BQ	Conservative	Upper Lune Valley	015242 71731
ARCHER, Evelyn	17a South Grove, Morecambe LA4 5RL	Independent	Poulton	422180
ASHWORTH, Evelyn	3 Morecambe Road, Morecambe, LA3 3AA	Independent	Torrisholme	410533
BARKER, Ian S.	32 Derwent Road, Lancaster, LA1 3ES	Labour	Bulk	843962
BARRY, Jon	145 Willow Lane, Lancaster LA1 5PR	Green	Castle	844113
BAXTER, Garry	14 Westham Street, Lancaster LA1 3AU	Free Independent	Overton	07977 157264
BLAMIRE, M. Eileen	1 Thirsk Road, Lancaster, LA1 4NE	Labour	John O'Gaunt	63765
BRAY, Susan Elizabeth	10 Ruskin Drive, Bare, Morecambe LA4 6EZ	Conservative	Bare	413490
BROWN, Kenneth	17 Dalton Road, Heysham, Morecambe LA3 1HB	Conservative	Heysham South	416613
BRYNING, Abbott C.	51 Sefton Drive, Lancaster, LA1 2QD	Labour	Bulk	69185
BUDDEN, Keith W.	Town End Cottage, 1 Town End, Bolton-le-Sands, Carnforth, LA5 8JF	Independent	Bolton-le-Sands	824247
BURNS, Shirley	56 Beaufort Road, Bare, Morecambe LA4 6UA	Independent	Poulton	412779
CHAPMAN, Anne C.	239 Willow Lane, Lancaster LA1 5LG	Green	Castle	846628
CHARLES, Susan	The Stables, Ellel Grange, Lancaster, LA2 0HN	Conservative	Ellel	751200
CLIFFORD, Tina L.	59 Norton Road, Heysham, Morecambe LA3 1PF	Labour	Heysham North	07766 556852
CLIFT, Ian W.	6 St. Oggs Road, Westgate, Morecambe LA4 4RJ	Liberal Democrat	Torrisholme	420111
COATES, Christopher	38 Coverdale Road, Lancaster LA1 5PY	Green	Castle	840530
DAY, R. John	57 Michaelson Avenue, Torrisholme, Morecambe, LA4 6SF	Liberal Democrat	Torrisholme	417202
DENWOOD, Sheila E.	5 Lily Grove, Scotforth, Lancaster, LA1 4TR	Labour	Scotforth West	65467
DENT, Jean	4 Archer Hill, Millhead, Carnforth LA5 9HG	Independent	Warton	736922
DOWDING, Gina	9 Portland Street, Lancaster, LA1 1SZ	Green	Duke's	841645
FISHWICK, Sarah	52 Emesgate Lane, Silverdale, Carnforth, LA5 0RF	Conservative	Silverdale	701592
FRETWELL, John	8 Lichfield Avenue, Bare, Morecambe, LA4 6EA	Conservative	Bare	420132
GARDNER, Paul M.	4 Fern Bank, Lancaster Road, Carnforth LA5 9DS	Labour	Carnforth	736020
GERRARD, Rebekah	10 Leyster Street, Morecambe LA4 5NE	Labour	Poulton	414884
GILBERT, John	10 Marlton Way, Lancaster, LA1 5BW	Liberal Democrat	Scotforth East	69183
GRATTAN, Charles	16 Peel Avenue, Skerton, Lancaster, LA1 2LJ	Labour	Skerton East	60709
GREENALL, Michael D.	16 Tomlinson Road, Heysham, Morecambe, LA3 2LS	Independent	Heysham South	853373
HANSON, Janice	41 Buckingham Road, Morecambe LA4 4QR	Labour	Harbour	411019
HARRISON, John T.	38 Shakespeare Road, Skerton, Lancaster, LA1 2JR	Labour	Skerton East	62370
HEATH, Emily	4 Rossmoyne Road, Scotforth, Lancaster, LA1 4SN	Green	Scotforth West	380169
HELME, Helen R.	"Laneside", Ellel, Near Lancaster, LA2 0QQ	Conservative	Ellel	751075
HORNER, Janet	18 Ashton Road, Lancaster, LA1 4RT.	Labour	Skerton West	66602
JOHNSON, Anthony G.	6 Hatlex Drive, Hest Bank, Lancaster. LA2 6HA	Conservative	Bolton-le-Sands	825017 / 07810864620
JONES, Jean	47 Pickthorn Close, Vale Estate, Lancaster LA1 2PJ	Labour	Skerton West	65613

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NAME	ADDRESS	DESCRIPTION	WARD	HOME TELEPHONE
KERR, David	71 Stanley Road, Heysham, Morecambe, LA3 1UT	Independent	Westgate	400509
KIRKMAN, Janie	254 Bowerham Road, Lancaster, LA1 4LR	Liberal Democrat	Scotforth East	37311
KNIGHT, Geoff	15 Lichfield Avenue, Morecambe, LA4 6EA	Independent	Heysham Central	420113
LANGHORN, Stuart	5 Hawthorn Close, Brookhouse, Lancaster LA2 9NR	Liberal Democrat	University	0791 9927467
LEE, Philip A. E.	The Gatehouse, Barrows Lane, Heysham, LA3 2RP	Independent	Heysham South	07947 712733
MACE, J. Roger	"Downderry", Halton Road, Nether Kellet, Carnforth, LA6 1EU	Conservative	Kellet	733801
MILLAR, Gareth J.	20 Ayreton View, Howegill, Lancaster LA1 2RW	Labour	John O'Gaunt	39055
NEWTON, Judith	1 Langdale Road, Carnforth, LA5 9AU	Labour	Carnforth	735061
PRITCHARD, Joyce	8 Sycamore Road, Brookhouse, Nr. Lancaster, LA2 9PB	Liberal Democrat	Lower Lune Valley	770874
QUINTON, Patricia M.	49a Moorside Road, Brookhouse, Lancaster, LA2 9PJ	Liberal Democrat	Lower Lune Valley	770220
RAVETZ, Joseph	Moorside Lodge, Wyresdale Road, Lancaster, LA1 3DY	Labour	John O'Gaunt	849130
REDFERN, Robert	4 Laburnum Road, Skerton, Lancaster, LA1 2BY	Labour	Skerton East	381923
ROBINSON, Peter	20 Marine Road West, Morecambe, LA3 1BU	Labour	Harbour	401164
ROGERSON, Sylvia	The Vines, 3a Peacock Lane, Hest Bank, Lancaster LA2 6EN	Conservative	Slyne-with-Hest	824468
SANDS, Ronald	31 Marine Court, Sandylands Promenade, Heysham, Morecambe LA3 1HQ	Labour	Heysham North	421620
SHERLOCK, Roger J.	103 Lune Street, Lancaster, LA1 2AH	Labour	Skerton West	35696
STAMP, Catrina	38 Coverdale Road, Lancaster LA1 5PY	Green	Scotforth West	840530
STONE, Alexander P. T.	44 Garfield Avenue, Lancaster, LA1 5ET	Liberal Democrat	University	388742
TAYLOR, Joyce	1 St. Ogg's Road, Morecambe, LA4 4RJ	Independent	Heysham Central	416859
THOMAS, J. Malcolm	40 Manor Lane, Slyne, Lancaster LA2 6JE	Conservative	Slyne-with-Hest	822471
WADE, Anthony M. B.	85 Stanhope Avenue, Torrisholme, Morecambe, LA3 3AL	Independent	Westgate	410027
WHITAKER, David	20 Marine Road West, Morecambe, LA3 1BU	Labour	Harbour	424727
WILSON, Geoffrey K.	6 Queen's Drive, Morecambe, LA4 6LN	Independent	Westgate	832744 (work)
WHITELEGG, John	53 Derwent Road, Lancaster LA1 3ES	Green	Bulk	63175
WOODRUFF, Paul	27 St. Wilfrid's Park, Halton, Lancaster, LA2 6PN	Free Independent	Halton	811770

Labour:	20	}
Independent:	12	
Conservative:	11	
Liberal Democrat:	8	
Green:	7	
Free Independent:	2	
TOTAL:	60	

PART 3, SCHEDULE 2

RESPONSIBILITIES OF THE LEADER

- 1 Preside over and provide leadership and direction to the Cabinet.
- 2 Represent the Authority as Leader of the Council.
- 3 Co-ordinate the decision-making process of the Cabinet and its Committees within the Budget and Policy Framework agreed by the Council.
- 4 Co-ordinate the Cabinet's preparation of draft proposals to amend or update the Budget and Policy Framework.
- 5 Co-ordinate the preparation of the annual budget.
- 6 Prepare, update and publicise the four-month Forward Plan documents setting out the schedule and timetable for the Cabinet's decision-making arrangements.
- 7 Co-ordinate the continuous review and evaluation of the effectiveness of service provision within the Council and request the Overview and Scrutiny Committee to assist where appropriate.
- 8 Liaise with the Overview and Scrutiny Committee.
- 9 Report to each full Council meeting on the proceedings of the Cabinet. The report shall include a summary of all Key Decisions taken by the Cabinet, its Committees and Officers.
- 10 Prepare a quarterly report to Council setting out decisions taken under the Urgent Business Procedure.
- 11 Answer questions at full Council in accordance with the Council's procedures for Question Time.
- 12 Present a Business Progress Report annually in writing to the Council.

CABINET MEMBERS

Cabinet decisions on Key Decisions or matters referred to Cabinet by individual Cabinet members or officers, will be made collectively. Each Cabinet Member will have a Special Interest Responsibility for leading on a particular range of Council functions as set out in the Cabinet Procedure Rules 1.2(b) and will have the power to make non-Key Decisions on issues that occur within it.

PART 3, SCHEDULE 3, CABINET MEMBERS AND THEIR RESPONSIBILITIES

As required under Article 7, paragraph 7.07, Responsibility for Functions.

CABINET MEMBER	SERVICE AREA	DETAIL
Councillor I Barker	Finance	<p>The Council's annual revenue budget, capital programme, Council Tax setting.</p> <p>Corporate budget monitoring.</p>
Councillor A Stone	Information Technology	<p>Co-ordination and review of the provision of information services.</p> <p>E-Government.</p>
	Revenues and Benefits	<p>Collection and administration of the Council, National Non-Domestic Rate and collection of other income due to the Council.</p> <p>Supervision of the payment and administration of Housing and Council Tax Benefit.</p>
	Personnel	<p>Representing the Council and liaising with external organisations.</p>
	Property	<p>Asset management planning.</p> <p>The Council's commercial property and other land and buildings portfolio, including markets.</p> <p>Development, maintenance and cleaning of buildings and premises for the accommodation of Council employees and services.</p>
	Legal	<p>Co-ordination and review of the effectiveness of the Council's Legal Service.</p>
	Licensing	<p>Policy matters relating to the licensing function of the Council, insofar as these are not within the terms of reference of the Licensing Regulatory Committee.</p>
	Administration	<p>Co-ordination and review of the effectiveness of the Council's Administration Service.</p> <p>Co-ordination and review of the Council's civic and ceremonial affairs, including matters relating to:</p> <ul style="list-style-type: none"> • The Mayoralty • Civic events and celebrations • Twinning • Official visits

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CABINET MEMBER	SERVICE AREA	DETAIL
Councillor J Hanson	Engineering	<p>The Council's own functions in relation to highways and other roads, streets and paths, except those matters within the terms of reference of the Planning and Highway Regulatory Committee.</p> <p>Overseeing the Highways Partnership scheme.</p> <p>Road safety.</p> <p>Provision of support and facilities for use in connection with public transport, including concessionary fares schemes.</p> <p>Provision, development and maintenance of car parking facilities with appropriate charging arrangements.</p> <p>Prevention of flooding through the provision and maintenance of sea and river defences.</p>
Councillor G Dowding	External Affairs	<p>Neighbourhood Partnerships.</p> <p>General Sub-Regional, County and Regional relationships.</p> <p>Communication with local population.</p> <p>Community Strategy.</p> <p>Equal opportunity and diversity initiatives.</p> <p>Local Agenda 21.</p>
Councillor E Blamire		<p>Crime and Disorder.</p> <p>Liaison on Community Safety.</p> <p>Emergency Planning.</p>
Councillor I Barker Councillor G Dowding Councillor P Quinton Councillor A Stone	Grants to Voluntary and Community Organisations.	<p>Grand Aid and Assistance</p> <p>Local Compact Liaison</p>

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CONSTITUTION**

CABINET MEMBER	SERVICE AREA	DETAIL
Councillor J Pritchard cont'd	Environmental Health	<p>Clearance and improvement of unfit and other sub-standard dwellings.</p> <p>Houses in multiple occupation.</p> <p>Harassment and protection from eviction.</p> <p>Abatement of overcrowding.</p> <p>Encouragement of private sector housing development and renewal and development of partnerships.</p> <p>The prevention of pollution and nuisances, except for the issuing of any consent or licence or any regulatory or enforcement notice, order or other such action, which is within the terms of reference of the Licensing Regulatory Committee.</p> <p>The enforcement of legislation and standards relating to food and drugs.</p> <p>The protection and enhancement of public health and animal health.</p> <p>Health and safety in the Council's capacity as employer.</p> <p>The control of pests.</p> <p>Port health.</p> <p>The provision and maintenance of cemeteries.</p> <p>Health promotion and education.</p> <p>Monitoring and investigation of infectious diseases.</p> <p>Monitoring of water and the improvement of private water supplies.</p>
Councillor A Bryning	Economic Development and Regeneration	<p>Development of SRB Partnership and European and Regional Regeneration Programmes.</p> <p>Promotion and marketing of the District.</p> <p>Development of sites and premises for industry and commerce.</p> <p>Reclamation of derelict land.</p> <p>Provision of financial assistance to new and existing businesses.</p>

**Lancaster City Council
CONSTITUTION**

CABINET MEMBER	SERVICE AREA	DETAIL
Councillor R Sands cont'd	Museums Tourism	<p>Parks and gardens and open spaces (excluding Williamson Park).</p> <p>Picnic sites.</p> <p>Allotments.</p> <p>Community centres and village halls.</p> <p>Museums Partnership monitoring and review.</p> <p>Promotion and marketing of the District as a tourist area.</p> <p>Assistance to, development and maintenance of tourist facilities and attractions including the foreshore, boating pools, Stone Jetty, shelters, flagstaffs, the Promenade.</p> <p>Promotion of conferences within the District.</p> <p>Provision of services for visitors including information and booking services.</p> <p>Liaison with and support for Williamson Park Limited.</p>
Councillor P Quinton	Rural Affairs	Parish Councils

PART 4

RULES OF PROCEDURE

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Part 4, Section 1

Council Procedure Rules

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and Business

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in May.

The Annual Meeting will:

- (i) elect a person to preside if the Mayor and Deputy Mayor of the Council are not present;
- (ii) elect the Mayor of the Council;
- (iii) elect the Deputy Mayor of the Council;
- (iv) approve the Minutes of the previous ordinary meeting;
- (v) receive any announcements from the Mayor and/or Chief Executive;
- (vi) elect the Leader and Members of Cabinet in accordance with Article 7.
- (vii) appoint to Overview and Scrutiny Committee, Budget and Performance Panel, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, of this Constitution);
- (viii) appoint a Chairman for each Committee of Council;
- (ix) consider any business set out in the notice convening that meeting.

1.2 Selection Of Councillors On Committees, Overview And Scrutiny And Outside Bodies

At the Annual Meeting, the Council will:

- (i) decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (ii) receive nominations of Councillors to serve on each Committee, Overview and Scrutiny Committee and Budget and Performance Panel and outside bodies; and
- (iii) appoint to those Committees, Overview and Scrutiny and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet; and
- (iv) appoint a Chairman for each Committee of Council.

2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme decided by the Council. Ordinary meetings will:

- (i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (ii) approve the Minutes of the last meeting of the Council (whether Ordinary or Annual);
- (iii) items of urgent business authorised by the Mayor;
- (iv) receive any declarations of interest from Members;
- (v) receive any announcements from the Mayor or Chief Executive, or any Member with the permission of the Mayor;
- (vi) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (vii) deal with any business from the last Council meeting;
- (viii) receive a report from the Cabinet Leader and subsequent questions and on an annual basis from each Cabinet Member and Overview and Scrutiny Committee;
- (ix) receive reports and referred items from Cabinet, Council Committees and Overview and Scrutiny;
- (x) receive written questions on notice from members of the Council and subsequent answers;
- (xi) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xii) consider motions on notice;
- (xiii) receive reports from the Council's Statutory Officers or any other Officer with the permission of the Chief Executive or at the request of the Chairman of Overview and Scrutiny or a Committee of Council.
- (xiv) consider any other business specified in the summons to the meeting, including appointments to Committees, Overview and Scrutiny and outside bodies;
- (xv) the last Ordinary meeting preceding the Annual Meeting will approve a programme of Ordinary meetings for Council for the next year;
- (xvi) receive Cabinet minutes.

3. EXTRAORDINARY MEETINGS

3.1 Calling Extraordinary Meetings

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;

- (ii) the Mayor of the Council;
- (iii) any statutory officer of Council; and
- (iv) a quorum of Members (i.e. 15) of the Council if they have signed a requisition presented to the Mayor of the Council and they has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 Business

An extraordinary meeting of the Council may only consider that item or those items specifically listed in the reasons for calling the Extraordinary Meeting.

4. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND OVERVIEW AND SCRUTINY

4.1 Allocation

For each Committee (with the exception of Licensing Act Committee) and Overview and Scrutiny meeting, each Group may appoint up to a maximum of two named substitutes. In the case of all Committees except Overview and Scrutiny meetings Groups may change such appointment at any time by giving notice to the Head of Administration Services in writing or by electronic mail (from a known or recognised source). Any such changes must be made at least 30 minutes before the commencement of the first meeting for which the change will apply.

4.2 Powers and Duties

Substitute Members will have all the powers and duties of any ordinary Member of the Committee, but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

4.3 Substitution

- (i) Substitute Members may attend meetings in that capacity only to take the place of the ordinary Member for whom they are substitute and where the ordinary Member will be absent for the whole of the meeting;
- (ii) Casual substitutes may attend without restriction on numbers as required by Groups after notifying the Head of Administration Services in writing or by electronic mail (from a known or recognised source) at least 30 minutes before the commencement of the meeting. The use of casual substitutes is not permitted at Overview and Scrutiny meetings or at Licensing Act Committee.

5. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Council at its Annual Meeting.

6. NOTICE OF AND SUMMONS TO MEETINGS

The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five days before a meeting, the Chief Executive will send a summons signed by him or her by post to every Member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

7. CHAIR OF THE MEETING

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Overview and Scrutiny meetings, reference to the Chairman is also to include the Chairman of Committees and Overview and Scrutiny.

8. QUORUM

The quorum of a meeting will be one quarter of the whole number of Members (rounded up if necessary for the purpose of Committees, Overview and Scrutiny and Task Groups) with a minimum quorum of three. If a quorum is not present 15 minutes after the published start time the meeting will be abandoned. During any meeting if the Chairman 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 Chairman. If he does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. DURATION OF MEETING

9.1 Interruption of the Meeting

The meeting shall adjourn at 6.00 pm for a break of 30 minutes, save that the Chairman, at his/her discretion, may waive the adjournment if it is likely that the business can be finished shortly.

10. QUESTIONS BY THE PUBLIC

10.1 General

Members of the public may ask questions of Members of the Cabinet and Overview and Scrutiny Committee and Budget and Performance Panel Chairmen at ordinary meetings of the Council.

10.2 Order of Questions

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

10.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than midday 3 days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Cabinet or Overview and Scrutiny Committee or Budget and Performance Panel Chairman to whom it is to be put.

10.4 Number of Questions

At any one meeting no person may submit more than one question and no more than two such questions may be asked on behalf of one organisation.

10.5 **Scope of Questions**

The Chief Executive may reject a question if it:

- (a) is not about a matter for which the Local Authority has a responsibility or which affects the District;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- (e) requires the disclosure of confidential or exempt information.

Notice will be given of the reason for rejecting questions.

10.6 **Record of Questions**

The Head of Administration Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put.

10.7 **Asking the Question at the Meeting**

The Chairman will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given back or decide, in the absence of the questioner, that the question will not be dealt with.

10.8 **Supplementary Question**

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her question. A supplementary question must arise directly out of the original question or the reply and will be restricted to two minutes duration. The Chairman may reject a supplementary question on any of the grounds in Rule 10.5 above.

10.9 **Written Answers**

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

10.10 **Reference of Question to the Cabinet or a Committee or Overview and Scrutiny Committee**

Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or Overview and Scrutiny Committee. Once seconded, such a motion will be voted on without discussion.

10.11 **Duration of Public Question Time**

Public question time should not exceed 30 minutes in duration and will be conducted in accordance with the procedures set out in 10.1 to 10.10 above.

11. QUESTIONS BY MEMBERS

11.1 On Reports and Minutes of the Cabinet or Committees and Overview and Scrutiny

- (a) A Member of the Council may ask a Member of the Cabinet or the Chairman of a Committee or Overview and Scrutiny meeting any question without notice upon an item of the report or minutes of the Cabinet or a Committee when that item is being received or under consideration by the Council. Questions are limited to two minutes duration.
- (b) The Mayor shall have discretion to ensure that the questions asked under Rule 11.1 (a) are representative of the views of Members of the Council, and, where in the Mayor's belief the questions that have already been put shall have represented the views of the Members of the Council, the Mayor shall intervene to limit further questions in order not to impede proper attention to further business.

11.2 Questions on Notice at Council

Subject to Rule 11.4, a Member of the Council may ask:

- the Chairman
- a Member of the Cabinet
- the Chairman of any Committee or Overview and Scrutiny Committee or Budget and Performance Panel

a question on any matter in relation to which the Council has powers or duties or which affects the District.

11.3 Question on Notice at Committees and Overview and Scrutiny

Subject to Rule 11.4, a Member of a Committee or Overview and Scrutiny meeting may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of that Committee or Overview and Scrutiny meeting.

11.4 Notice of Questions

A Member may only ask a question under Rule 11.2 or 11.3 if either:

- (a) they have given at least three days notice in writing or by electronic mail (from a known or recognised source) of the question to the Chief Executive; or
- (b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given in writing or by electronic mail (from a known or recognised source) to the Chief Executive by 12 noon on the day of the meeting or one hour before the commencement of the meeting, whichever is the earlier.

11.5 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

11.6 Supplementary Question

A Member asking a question under Rule 11.1, 11.2 or 11.3 may only ask one further supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly from the original question or the reply and will be restricted to two minutes duration.

12. MOTIONS ON NOTICE

12.1 Notice

Except for motions which can be moved without notice under Rule 13, written notice of every motion, from at least 2 Members, must be delivered to the Chief Executive not later than 10 days before the date of the meeting in writing or by electronic mail (from a known or recognised source). This can be collective notification for Members of the same political group. These will be entered in a book open to public inspection.

12.2 Motion Set Out in Agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Members who have given notice state, in writing, that they propose to move it to a later meeting or withdraw it.

12.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the District.

12.4 Closure of Debate

Debate on any motion for which notice has been given may be closed after 45 minutes, when the Mayor may move to the summing up and vote on any amendment then being debated and on the substantive motion without further debate or amendment.

13. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the Minutes;
- (c) to change the order of business in the agenda;

- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee, Board or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees and Overview and Scrutiny or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) closure motions as set out in 14.11 below;
- (j) to suspend a particular Council Procedure Rule;
- (k) to exclude the public and press in accordance with the Access to Information Rules;
- (l) to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- (m) to give the consent of the Council where its consent is required by the Chairman.

14. RULES OF DEBATE

14.1 No Speeches Until Motion Seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

14.2 Right to Require Motion in Writing

Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.

14.3 Secunder's Speech

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

14.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman. The mover of a motion may speak for no longer than 5 minutes.

14.5 When a Member May Speak Again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since they last spoke;

- (c) if his/her speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (d) in the exercise of a right of reply as the mover of the original motion or an amendment;
- (e) on a point of order; or
- (f) by way of personal explanation.

14.6 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

14.7 Alteration of Motion

- (a) A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

14.8 Withdrawal of Motion

A Member may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

14.9 Right to Reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) The mover of the amendment has a right of reply to the debate on his/her amendment
- (c) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

14.10 Motions Which May be Moved During Debate

When a motion is under debate, no other motion may be moved except the following procedure motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to exclude the public and press in accordance with the Access to Information Rules;
- (d) not to hear further a Member named under Rule 19.3 or to exclude that person from the meeting under Rule 19.4;
- (e) closure motions as set out in 14.11 below.

14.11 Closure Motions

- (a) A Member, who has not already spoken in the debate, may move, without comment, the following motions at the end of a speech of another Member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the items has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

14.12 **Duties of the Mayor or Person Presiding**

Where, in the Mayor's belief, any debate shall already have represented the views of Members of the Council, the Mayor shall, notwithstanding that no closure motion has been moved under Rule 14.11, have discretion to intervene to limit any further debate in order not to impede proper attention to further business.

14.13 **Point of Order**

A Member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chairman on the matter will be final.

14.14 **Personal Explanation**

A Member may make a personal explanation at any time. 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 Chairman on the admissibility of a personal explanation will be final.

15. **PREVIOUS DECISIONS AND MOTIONS**

15.1 **Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 15 Members, being a quorum of the Council.

15.2 **Motion Similar to One Previously Rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 15 Members, being a quorum of the Council. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

16. **VOTING**

16.1 **Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

16.2 **Chairman's Casting Vote**

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

16.3 **Show of Hands**

Unless a recorded vote is demanded under Rule 16.4, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

16.4 **Recorded Vote**

If 10 Members present at the meeting or in the case of a Committee one sixth of those present, rounded up if necessary with a minimum number of 3, indicate the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the Minutes.

16.5 **Right to Require Individual Vote to be Recorded**

Where any Member 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.

16.6 **Voting on Appointments (other than to the Cabinet)**

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. If there is a tie in respect of the person with the least number of votes, a re-vote should be taken, and if there is still a tie, lots should be drawn. The process will continue until there is a majority of votes for one person. This rule does not apply to elections to the Cabinet.

17 **MINUTES**

17.1 **Distribution**

Minutes shall be published as soon as practicable after the meeting.

17.2 **Signing the Minutes**

The Chairman will sign the Minutes of the proceedings at the next suitable meeting. The Chairman will move that the Minutes of the previous meeting be signed as a correct record. The only part of the Minutes that can be discussed is their accuracy.

17.3 **No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting**

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.

17.4 **Form of Minutes**

Minutes will contain all motions and amendments in the exact form and order the Chairman put them in.

18 **EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 Section 2 of this Constitution or Procedure Rule 20 (Disturbance by Public).

19 MEMBERS' CONDUCT

19.1 Standing to Speak

When a Member or Officer speaks at Council they must stand (unless unable to do so) and address the meeting through the Chairman. If more than one Member stands, the Chairman will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

19.2 Chairman Standing

When the Chairman stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

19.3 Member not to be Heard Further

If a Member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

19.4 Member to Leave the Meeting

If the Member continues to behave improperly after such a motion is carried, the Chairman may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

20 DISTURBANCE BY PUBLIC

20.1 Removal of Member of the Public

If a Member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

20.2 Clearance of Part of Meeting Room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

20.3 General Disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as they think necessary.

21 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

21.1 Suspension

All of these Council Rules of Procedure except Rule 16.4 and 17.3 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

21.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

22 APPLICATION TO COMMITTEES AND OVERVIEW AND SCRUTINY

22.1 All of the Council Rules of Procedure apply to meetings of Council. Only Rules 5-9, 11-22 (but not Rule 19.1) apply to meetings of the Cabinet, Committees and Overview and Scrutiny.

22.2 Where the Planning and Highways Regulatory Committee or the Licensing Regulatory Committee is considering an individual application, any Member who represents the Ward to which the application relates, may address the relevant Committee to express views in favour or against the application; for a maximum of three minutes in the case of the Planning and Highways Regulatory Committee. Ward Members must give the appropriate notice under the Planning Public Participation Scheme to enable applicants to address the Committee also.

Addendum 1 to Part 4, Section 1 Procedural Rules for the Council

PRESENTATION OF PETITIONS AND HEARING OF ADDRESSES – MEMBERS

- (1) At a meeting of the Council any member of the Council may present a petition or address which is relevant to some matter in relation to which the Authority have functions, or which affects the area of the Authority, or part of it, or the inhabitants of that area, or some of them.
- (2) The provision outlined in (1) above does not extend to applications for or objectors to:-
 - (a) planning permission;
 - (b) any licence, notice or order issued, served or made by the Council.
- (3) At least seven days before the meeting at which the petition is to be presented, the person wishing to present it shall give notice of his or her intention to do so to the Chief Executive, in writing or by electronic mail, and shall show the petition to him or her and he or she shall not accept the notice unless he or she is satisfied that the petition or address is proper to be presented.
- (4) In presenting a petition or address, the person may speak for not more than five minutes. These remarks shall relate to the matter indicated when the request was made and shall not constitute a personal attack upon any person. The person or persons speaking to the petition or address shall be heard in silence.
- (5) Petitions and addresses shall be presented, in order in which notice of them is received by the Chief Executive.
- (6) Where the subject matter of a petition or address received is within the terms of reference of the Cabinet or relevant Overview and Scrutiny Committee, it shall be referred to the next convenient meeting of the Cabinet or relevant Overview and Scrutiny Committee within whose terms of reference it falls. If any question arises as to the Cabinet or Overview and Scrutiny Committee to which the subject matter is to be referred, it shall be determined by the person presiding.
- (7) Where a petition or address is referred to a meeting of the Cabinet or Overview and Scrutiny Committee, the Cabinet or Overview and Scrutiny Committee shall either report upon the subject matter to the next meeting of the Council or committee, or include their views upon the subject matter in their next report to the Council or committee.

Addendum 2 to Part 4, Section 1 Procedural Rules for the Council

PRESENTATION OF PETITIONS AND HEARING OF ADDRESSES

- (1) At a meeting of the Council a Councillor, Local Government Elector or Council Tax Payer for the area of the Authority may present a petition or address which is relevant to some matter in relation to which the Authority have functions, or which affects the area of the Authority, or part of it, or the inhabitants of that area, or some of them.
- (2) The provision outlined in (1) above does not extend to applications for or objectors to:-
 - (a) planning permission (see the Council's arrangements for public participation in Planning Committee meetings as outlined in the leaflet available from Planning and Building Control Services);
 - (b) any licence, notice or order issued, served or made by the Council.
- (3) At least seven days before the meeting at which the petition is to be presented, the person wishing to present it shall give notice of his or her intention to do so, in writing or by electronic mail (from a known or recognised source in the case of Members), to the Chief Executive and shall show the petition to him or her and he or she shall not accept the notice unless he or she is satisfied that the petition or address is proper to be presented. This can be collective notification for members of the same political group.
- (4) In presenting a petition or address, the person may speak for not more than five minutes. These remarks shall relate to the matter indicated when the request was made and shall not constitute a personal attack upon any person. The person or persons speaking to the petition or address shall be heard in silence.
- (5) Petitions and addresses shall be presented, in order in which notice of them is received by the Chief Executive.
- (6) Where the subject matter of a petition or address received is within the terms of reference of the Cabinet or Overview and Scrutiny Committee, it shall be referred to the next convenient meeting of the Cabinet or Overview and Scrutiny Committee within whose terms of reference it falls.
- (8) Where a petition or address is referred to a meeting of the Cabinet or Overview and Scrutiny Committee, the Cabinet or Overview and Scrutiny Committee shall either report upon the subject matter to the next meeting of the Council or committee, or include their views upon the subject matter in their next report to the Council or committee.

**Addendum 3 to Part 4, Section 1
Procedural Rules for the council**

SELECTION OF MAYOR AND DEPUTY MAYOR AND SENIORITY OF MEMBERS

- (i) The Mayor of the City shall be selected on the basis of seniority and the Member of the Council being the senior Member (determined in accordance with paragraph (4) below) shall be invited to be Mayor providing that the Member has not previously declined the offer of Office of Mayor on more than one occasion, made in accordance with this Procedural Rule.
- (ii) The invitation shall be offered by the Council not later than the Council meeting held in the January/February period.
- (iii) A Member who has declined the offer made under Paragraph (1) of this Procedural Rule, of Office of Mayor shall, unless otherwise agreed by Council, not be eligible to be offered the Office of Mayor for the following period of five years and shall be replaced accordingly in the list of seniority maintained under paragraph 4.
- (iv)
 - (a) Seniority of Members will be determined by the date of their election to the Council. Where Members are elected upon the same day, the question of seniority shall be determined once and for all by the Mayor by ballot and to which the persons interested shall have notice to attend.
 - (b) Where a Member has already in accordance with the above procedure, held the Office of Mayor, then that Member's continuing seniority shall be determined by adding the name of that Member at the end of the mayoral year in the list of seniority.
 - (c) Where a Member of the Council, whose seniority has already been determined, ceased to be a Member of the Council and then is re-elected, his or her seniority shall be based on actual service.
- (v) The Deputy Mayor is selected by the Mayor.

Part 4, Section 2

Access to Information Procedure Rules

1. SCOPE

Rules 1 to 11 apply to all meetings of Council and its Committees, Cabinet and its Committees, Overview and Scrutiny meetings (including formally constituted Task Groups) and Area Forums.

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in the Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules.

4. NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting at Lancaster Town Hall and Morecambe Town Hall.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at Lancaster Town Hall and Morecambe Town Hall at least five clear days before the meeting and also on the Council's website. If an item is added to the agenda later, the revised agenda will be open to inspection from the time when the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Head of Administration Services shall make each such report available to the public as soon as the report is completed and sent to councillors.

6. SUPPLY OF COPIES

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Proper Officer thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Council, excluding any part of the minutes of proceedings when the

meeting was not open to the public or which disclose exempt or confidential information;

- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.01 List of Background Papers

Every report will include a list of those documents (called background papers) relating to the subject matter of the report which in the opinion of the writer of the report:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and, in respect of Cabinet reports, the advice of a political advisor.

8.02 Public Inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at Lancaster Town Hall and Morecambe Town Hall.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.01 Confidential Information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.02 Exempt Information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Convention for the Protection of Human Rights establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.03 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order, or by virtue of any enactment.

10.04 Meaning of exempt information

Exempt information means information falling within the following 14 categories.

Category	Condition
1. Information relating to a particular employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, ie it must relate to and be recognisable as referring to a particular individual in the roles indicated.
2. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a magistrates' court committee or probation committee	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, ie it must relate to and be recognisable as referring to a particular individual in the roles indicated.
3. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, ie it must relate to and be recognisable as referring to a particular individual in the roles indicated.
4. Information relating to any particular applicant for, or recipient or former recipient of any service provided by the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, ie it must relate to and be recognisable as referring to a particular individual in the roles indicated.
5. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, ie it must relate to and be recognisable as referring to a particular individual in the roles indicated.
6. Information relating to the adoption, care, fostering or education of any particular child.	Child means a person under 18 and anyone who is 18 and is still registered as a school pupil, or is the subject of a care order, within the meaning of Section 31 Children's Act 1989.

Category	Condition
7. Information relating to the financial or business affairs of any particular person (other than the authority)	Information within paragraph 7 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable.
8. The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.	Information within paragraph 8 is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with the authority in respect of the property, goods or services, whether the advantage would arise as against the authority or as against other such persons.
9. Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.	Information within paragraph 9 is only exempt if, and for so long as, disclosure to the public of the terms would prejudice the authority in those or any other negotiations concerning that property or those goods or services. (The disposal of property includes granting an interest in or right over it)
10. The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services.	For the purposes of this paragraph "tender" includes a DLO/DSO written bid.
11. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office-holders under the authority.	Information within paragraph 11 is only exempt if and for so long as is disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter. "Labour relations matters" are as specified in paragraphs (a) to (g) of Section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute.

Category	Condition
<p>12. Any instructions to Counsel and any Opinion of Counsel (whether or not in connection with any proceeds) and any advice received, information obtained or action to be taken in connection with:</p> <p>(a) any legal proceedings by or against the authority; or</p> <p>(b) the determination of any matter affecting the authority;</p> <p>whether, in either case, proceedings have been commenced or are in contemplation.</p>	
<p>13. Information which, if disclosed to the public, would reveal that the authority proposes -</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Information within paragraph 13 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.</p>
<p>14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	
<p>15. The identity of a protected informant.</p>	<p>A “protected informant” means a person giving the authority information which tends to show that:</p> <p>(a) a criminal offence;</p> <p>(b) a breach of statutory duty;</p> <p>(c) a breach of planning control; or</p> <p>(d) a nuisance</p> <p>has been, or is being, or is about to be committed.</p>

Information falling within any of the paragraphs 1-15 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “exempt from publication”, together with the category of information likely to be disclosed.

12. APPLICATION OF RULES TO THE CABINET

Rules 13-23 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a Key Decision then Rules 1-11 must also be complied with unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A Key Decision is as defined in Article 13.03.

If the Cabinet or its committees meet to discuss a Key Decision to be taken collectively, with an officer, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A Key Decision is as defined in the previous paragraph. This requirement does not include meetings whose sole purpose is for officers to brief members.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a Key Decision may not be taken unless:

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least five days have elapsed since the publication of the Forward Plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. THE FORWARD PLAN

14.1 Period of Forward Plan

Forward plans will be prepared by the leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

14.2 Contents of Forward Plan

The Forward Plan will contain matters which the leader has reason to believe will be subject of a Key Decision to be taken by the Cabinet, a committee of the Cabinet, Officers, Area Committees or under joint arrangements in the course of the discharge of a Cabinet function during the period covered by the plan. 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) where the decision taker is an individual, his/her name, title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision maker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be published at least fourteen days before the start of the period covered. The Proper Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (i) that Key Decisions are to be taken on behalf of the Council;
- (ii) that a Forward Plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (iii) that the plan will contain details of the Key Decisions to be made for the four month period following its publication;
- (iv) that each plan will be available for inspection at reasonable hours free of charge at Lancaster Town Hall and Morecambe Town Hall;
- (v) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the Key Decisions on the plan;
- (vi) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available;
- (vii) that other documents may be submitted to decision takers;
- (viii) the procedure for requesting details of documents (if any) as they become available; and
- (ix) the dates on each month in the following year on which each Forward Plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

15. GENERAL EXCEPTION – URGENT BUSINESS

15.01 If a matter which is likely to be a Key Decision has not been included in the Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;
- (b) the Proper Officer has informed the Chairman of the Overview and Scrutiny Committee, or in their absence the Vice-Chairman, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least five clear days have elapsed since the Proper Officer complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public.

15.02 If a matter, other than a Key Decision, requires an urgent decision, the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until the next appropriate meeting of the decision making body;
- (b) the proper officer has informed the Chairman of the relevant decision-making body and in the case of the Cabinet, the Cabinet Member with special interest for the area of responsibility;
- (c) any decision taken under this rule is reported into the next ordinary meeting of the decision making body; and
- (d) in the case of Cabinet, the decision cannot be implemented until:
 - i. the proper officer has made copies of that decision available to the public at the offices of the Council and also to the Overview and Scrutiny Committee Members.
 - ii. at least five days have elapsed since the proper officer complied with i. above (subject to Rule 17 of the Overview and Scrutiny Procedure Rules).

16. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision cannot reasonably be deferred. If the Chairman of the Overview and Scrutiny Committee is unable to act, then the agreement of the Vice-Chairman of Overview and Scrutiny or in his/her absence the Mayor will suffice.

17. REPORT TO COUNCIL

17.01 When the Overview and Scrutiny Committee can require a report

If the Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure ; or
- (c) the subject of an agreement with the Chairman of the Overview and Scrutiny Committee, or the Vice-Chairman of the Overview and Scrutiny Committee or the Mayor under Rule 16;

the Overview and Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any three members. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

17.02 Cabinet's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision and if the Leader is of the opinion that it was not a Key Decision the reasons for that opinion.

17.03 Quarterly reports on special urgency decisions

In any event the leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. RECORD OF DECISIONS

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Proper Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19. MEETINGS OF THE CABINET AND ITS COMMITTEES RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

The Cabinet will meet in public for all its decisions, except for decisions based on those parts of any document that contains exempt or confidential information.

20. OVERVIEW AND SCRUTINY'S ACCESS TO DOCUMENTS

20.01 Subject to Rule 20.02 below, the Overview and Scrutiny Committee (including task groups) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to:

- (a) any business transacted at a meeting of the Cabinet or its committees.

20.02 Limit on rights

Overview and Scrutiny will not be entitled to:

- (a) any document that is in draft form;
- (b) those parts of any document that contain exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to review or scrutinise; or
- (c) the advice of a political adviser, if any.

21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

21.01 Material relating to previous business

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted unless either (a) or (b) below applies:

- (a) it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information; or
- (b) it contains the advice of a political adviser, if any.

21.02 Material relating to Key Decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which related to any Key Decision unless paragraph (a) or (b) above applies.

21.03 Nature of Rights

These rights of a member are additional to any other right they may have in statute or at common law.

Part 4, Section 3

Budget and Policy Framework Procedure Rules

1. The Framework for Executive Decisions

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4 of this Constitution. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it. Any amendment to the budget and policy framework can only be agreed by Council unless otherwise specified in Financial Regulations.

2. Process for Developing the Framework

The process by which the budget and policy framework shall be developed is:

- (a) At an appropriate period before a new plan/strategy/budget needs to be adopted, that is not included in the budget and policy framework, the Cabinet will publish initial proposals for inclusion or amendments to the budget and policy framework, having first canvassed the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration. Details of the Cabinet consultation process shall be included in relation to each of these matters in the Forward Plan published at the Council's main offices and may also be made public in any other appropriate method (eg available on the Council's web page, published in the press). Any representations made to the Cabinet shall be taken into account in formulating the initial proposals and will be reflected in any report dealing with them. If the matter is one where Overview and Scrutiny has carried out research into a new policy initiative, then the outcome of that review will be reported to the Cabinet and considered in the preparation of their initial proposals.
- (b) The Cabinet's initial proposals may be referred to or requested by the Overview and Scrutiny Committee for further consideration by inclusion in their Work Plans. The Overview and Scrutiny Committee may canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration but should have particular regard not to duplicate any consultation carried out by the Cabinet. The Overview and Scrutiny Committee shall report to the Cabinet on the outcome of its deliberations within an appropriate timescale agreed with Cabinet. The timescale for each matter considered will depend on the particular issue at stake.
- (c) Each year Cabinet will review the Council's existing budget and policy framework plans and strategies in line with the approved timetable for preparing the budget and policy framework. The Budget and Performance Panel may also scrutinise existing budgets and policies and where appropriate may prepare a report for consideration by Cabinet.
- (d) In both instances where either a new or existing plan/strategy/budget is being considered the Overview and Scrutiny Committee or Budget and Performance Panel will have an opportunity to comment. If it considers it appropriate, Cabinet may then amend its proposals before submitting them to Council for consideration. It will also report to Council on how it has taken into account any recommendations from Overview and Scrutiny or Budget and Performance Panel. The report should be completed within the agreed timescale for preparing the annual budget and policy framework.
- (e) The Council will consider the proposals of the Cabinet and if it does not adopt the proposals as presented, Cabinet will then meet within the timescale set by Council and will:

- submit to Council a revision of the draft proposals as amended by Cabinet with reasons for any amendments;

Council will then meet, and after taking into account Cabinet's response, will either amend, approve or adopt the proposed plan, strategy or budget as appropriate.

- (f) The procedures set out in (e) above will apply to all Cabinet proposals in respect of:
- any draft plan, policy or strategy for inclusion in the Policy framework;
 - any proposed amendments to existing plans and strategies included in the Policy framework
 - any budget proposals for the following financial year.

and will be undertaken in accordance with the approved budget and policy framework time-table.

- (g) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget in accordance with paragraph 5 of these Rules. Any other changes to the budget and policy framework can only be approved by Council unless otherwise specified in Financial Regulations.

3. Decisions Outside the Budget or Policy Framework

- (a) Subject to the provisions of paragraph 5 (virement) and 6 (in year changes to budget and policy framework) the Cabinet, and any of its Committees, any Officers, or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wish to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Council, then that decision may only be taken by the Council subject to 4. below (urgent decisions outside the policy and budget framework).
- (b) If the Cabinet and any of its Committees, any Officers, or joint arrangements discharging executive functions want to make such a decision, as set out in 3(a) above, or are uncertain if an issue requiring a decision is inside or outside the budget and policy framework, they shall take advice from the Monitoring Officer as to whether the decision they wish to make would be contrary to the policy framework, and from both the Monitoring Officer and Section 151 Officer in circumstances where the matter in question may be contrary to or not wholly in accordance with the budget. If the advice of any of those Officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.
- (c) Application of (b) above does not circumvent the monitoring of each Officer's statutory reporting responsibilities that they would normally exercise.

4. **Urgent Decisions Outside the Budget or Policy Framework**

The Cabinet or any of its Committees, Officers, or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Council if the decision is a matter of urgency. However, the decision may only be taken:

- (i) if it is not practical in the opinion of the Chief Executive to convene a quorate meeting of the Council; and
- (ii) the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of the Council and the Chairman of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Committee, consultation with the Vice-Chairman, and in the absence of both, the Mayor will be sufficient.

5. **Virement**

Steps taken by the Cabinet, a Committee of the Cabinet, or Officers, or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head unless otherwise authorised in the Financial Regulations in Part 4, Section 6 of this Constitution.

6. **In-Year Changes to the Budget and Policy Framework**

The responsibility for agreeing the budget and policy framework lies with the Council and decisions discharging executive functions must be in line with it. No changes to any policy and strategy that make up the policy framework may be made in-year without Council's approval.

Financial Regulations do allow for minor amendments to be made in year to agreed budgets. The details of this are included in Part 4 Section 6 of this Constitution.

7. **Challenging Decisions Outside the Budget or Policy Framework**

- (a) Where the Chairman of the Overview and Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then the Chairman of the Overview and Scrutiny Committee shall seek advice from the Monitoring Officer and or the Section 151 Officer in accordance with procedure rule 3(b) above.
- (b) In respect of functions which are the responsibility of the Cabinet, in responding to the matter raised by the Chairman of the Overview and Scrutiny Committee, the Monitoring Officer and/or Section 151 Officer shall report to the Cabinet with a copy to the Chairman of the Overview and Scrutiny Committee. In the event that the Monitoring Officer and/or the Section 151 Officer conclude that the decision was a departure from the budget and policy framework, the Cabinet must meet to decide what action to take in respect of the report regardless of whether the decision is delegated or not. The Cabinet must then report to Council on its preferred course of action, and include the statutory officers' comments. If the Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure, Cabinet will report directly back to the Overview and Scrutiny Committee.

- (c) In such cases, where the Cabinet will report to Council, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 days of receiving the Cabinet report. At the meeting, it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. The Council may either:
- (i) approve that the decision or proposal of the Cabinet falls within the existing budget and policy framework. In this case, no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;
 - (ii) amend the Council's budget or policy concerned to encompass the decision or proposal and agree to the decision with immediate effect. In this case, no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;
- or
- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget and does not amend the existing framework to accommodate it, approve a decision contrary to the Cabinet's recommendations in accordance with the advice of either the Monitoring Officer and/or the Section 151 Officer.

Part 4, Section 4 Cabinet Procedure Rules

1. HOW THE CABINET OPERATES

1.1 Who May Make Executive Decisions?

The framework for how the Cabinet will function is set out in Article 7 of Part 2 of this Constitution and these Rules of Procedure. The functions that are the responsibility of the Cabinet are set out in Part 3, Section 2. Any Executive functions not set out there, will be a matter for the Cabinet collectively to decide how they are to be exercised. Executive functions can be discharged by:

- (i) the Cabinet collectively;
- (ii) an individual Cabinet Member (non-Key Decision only);
- (iii) a Committee of the Cabinet;
- (iv) an Officer;
- (v) an Area Committee;
- (vi) joint arrangements; or
- (vii) another Local Authority.

1.2 Special Interests for Cabinet Members

Members of the Cabinet will be responsible for a range of specific interests as determined by the Leader.

(a) Leader

The Leader will co-ordinate the business of the Cabinet and preside over its meetings. Further details of the Leader's responsibilities are set out in Schedule 2 of Part 3.

(b) Cabinet Members

The allocation of duties to individual Cabinet Members is the responsibility of the Leader and these shall be set out in Schedule 3 of Part 3.

(c) Deputy Leader

One of the Cabinet Members may be elected by Council as Deputy Leader, in addition to their special interests, following the elections to Cabinet appointments, if proposed by the Leader.

1.3 Delegation of Executive Functions

- (a) Where the Cabinet is responsible for an Executive function, they may collectively delegate further to an individual Cabinet member, a Committee of Cabinet, an Area Committee, joint arrangements or an Officer, unless the Council directs otherwise.

- (b) Unless the Cabinet directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Cabinet may delegate further to an Officer.
- (c) Even where Executive functions have been delegated, that fact does not prevent the discharge of these delegated functions by the Cabinet or Committee of the Cabinet who delegated, if appropriate.

1.4 The Council's Scheme of Delegation and Executive Functions

- (a) Subject to (b) below, the Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details set out in Article 7 and Part 3 of this Constitution.
- (b) The Cabinet collectively will be able to decide whether to delegate Executive functions where they are not specified by Council. The Cabinet may amend the Scheme of Delegation relating to these non-specified Executive functions at any time during the year. To do so, the Cabinet must give written notice to the Chief Executive and to the person or Committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation and whether it entails the withdrawal of delegation from any person or Committee. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Cabinet.
- (c) Where the Cabinet seeks to withdraw delegation made by them collectively under (b) above, from a Committee of the Cabinet, notice will be deemed to be served on that Committee when served on its Chair.

1.5 Conflicts of Interest

- (a) Where Members of the Cabinet and its Committees have a conflict of interest, this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every Member of the Cabinet or its Committees has a conflict of interest, this should be dealt with as set out in the Council's Dispensation Guidance Note available from the Monitoring Officer.
- (c) If the exercise of an Executive function has been delegated to a Committee of the Cabinet, an individual Cabinet member or an Officer and should a conflict of interest arise, then the function will be exercised in the first instance by the Cabinet, Committee or by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.6 Cabinet Meetings – When and Where?

The Cabinet will meet monthly, alternating between Lancaster Town Hall and Morecambe Town Hall on dates and at times to be agreed by the Members of the Cabinet, to be confirmed by Full Council on an annual basis. Cabinet may agree to hold additional meetings as required. In determining the time for the meeting, the Cabinet should have regard to maximising the accessibility of the public.

1.7 Meetings of the Cabinet

All meetings of the Cabinet will be in public except for that part of an item of business where exempt or confidential information is to be discussed.

1.8 Quorum

The quorum for a meeting of the Cabinet shall be 4 Members of the Cabinet. For meetings of Cabinet Committees, a quorum will be 40% (rounded up) or 3, whichever is the greater.

1.9 How are Decisions to be Taken by the Cabinet?

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4, Section 2 of this Constitution.
- (b) Where executive decisions are delegated to a Committee of the Cabinet, the Rules for taking decisions shall be the same as those applying to the Cabinet.
- (c) Non-Key Decisions will, in the first instance, be taken by individual Cabinet Members as set out in 1.11.

1.10 Urgent Decisions

- (a) When an executive decision is needed prior to the next scheduled meeting, the procedures set out in the Access to Information Rules 15 and 16 must be followed (Part 4 Section 2).
- (b) Decisions taken under this procedure must be reported into the next scheduled meeting of Cabinet.

1.11 Decision Making by Individual Cabinet Members

Individual Cabinet members shall have delegated authority to take non-Key Decisions within their portfolio (as set out in Part 3 of this Constitution). Cabinet members may elect to refer a decision to full Cabinet for consideration. Such decisions will be based on written reports and in accordance with the principles set out in Article 13 of this Constitution.

Decision notices and the reports on which these are based, will be published approximately fortnightly (according to a timetable which shall be published in advance) and subject to call-in, subject to the exceptions as set out in Rule 17, Part 4, Section 5 of this Constitution.

1.12 Agendas

All Cabinet agendas and those of its Committees will be circulated to all members of the Council. Cabinet members will take responsibility and ownership of Cabinet reports in their portfolio area of responsibility. Cabinet agenda should not include information reports.

2. CONDUCT OF THE CABINET AND ITS COMMITTEES

2.1 Chairing Meetings

- (a) The Leader of the Cabinet will preside. In his/her absence, the Deputy Leader, if one has been appointed, shall preside. In both the Leader and Deputy Leader's absence, then a person will be appointed to preside by those present.
- (b) The Leader will preside at any meeting of a Committee of the Cabinet at which they is present, or may appoint another person to do so. In the absence of the Cabinet Committee's Chairman, then a person will be appointed to preside by those present.

2.2 Who may attend?

Any Member of the Council may attend any Cabinet meeting or a meeting of its Committees. All meetings of the Cabinet and its Committees will be in public. Members of the public will be excluded for that part of an item of business where exempt or confidential information is to be discussed.

2.3 Business of the Meeting

At each meeting of the Cabinet the following business will be conducted:

- (i) consideration of the minutes of the last meeting;
- (ii) declaration of interests, if any;
- (iii) urgent business agreed by the Leader, or in the absence of the Leader, by the Chairman of the meeting.
- (iv) matters set out in the agenda for the meeting and which shall indicate which are Key Decisions;
- (v) consideration of reports from Cabinet Committees;
- (vi) consideration of reports from Overview and Scrutiny;
- (vii) matters referred to the Cabinet (whether by Overview and Scrutiny or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedures Rules set out in this Constitution; and
- (viii) reports from the Chief Executive, Corporate Directors or Service Heads;
- (ix) consideration of the monthly Forward Plan prepared by the Leader;

2.4 Consultation

All reports to Cabinet from any Member of the Cabinet or an Officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and Overview and Scrutiny and the outcome of that consultation. Reports about other matters will set out the details and outcome of any consultation undertaken as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 Cabinet Agenda Items

In addition to the above, any Member of the Council may ask the Chief Executive to produce a report and place an item on the Agenda of a Cabinet meeting for consideration and the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered and they will be invited to attend.

Furthermore, the Monitoring Officer and/or the Chief Financial Officer (the Council's Section 151 Officer) may include an item for consideration on the Agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the Agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the Agenda may also require that a meeting be convened at which the matter will be considered.

2.6 Right of Members to Address Cabinet

Where an Overview and Scrutiny meeting submits a report to Cabinet, a nominee of that meeting may and will normally present the report to Cabinet. Any Member, at the discretion of the Chairman of Cabinet, may address Cabinet on Ward matters where this is relevant to a report on the Agenda, subject to giving 3 days notice and a 5 minute time limit.

2.7 Access to Information

The rules that determine how the Cabinet will conduct its meetings in respect of the following are set out in the Access to Information Procedure Rules in Section 2 of Part 4 of this Constitution:

- Key Decisions
- Forward Plans
- Exempt and Confidential Business
- Agendas, Reports, Minutes and Background Papers
- Urgent Business.

2.8 Cabinet Liaison Groups

- i. These Groups are proposed to undertake the functions that were originally intended for the Policy Advisory Groups. Their purposes are purely consultative and not decision-making. They will be chaired by a member of Cabinet and there is no restriction on size although the group must be limited to what is manageable and effective for their purpose. They may be time limited or of longer standing, again depending on their purpose.
- ii. The participants in the Group will be by invitation of the Chairmen and can be made up from any or all of the following:
 - Other members of Cabinet
 - Other members of Council not on Cabinet
 - Others from outside the Council
 - Council officers

- iii. *Terms of Reference:* Their Terms of Reference would be to share information about a particular topic, e.g. e-government and develop effective consultation and communication links with community groups and other bodies with an interest in the subject area. In this way, individual Cabinet members will have a wider information and advisory platform to inform executive decision-making and policy effectiveness.
- iv. Specific outcomes from their meetings may generate requests for pieces of work to be undertaken by officers or partner bodies. Alternatively, it could be a request to Overview and Scrutiny to set up a Task Group to undertake a specific piece of work. There could also be specific reports to Cabinet, Committees of Cabinet, individual Cabinet members, or other Committees of Council recommending action for determination.
- v. Each Liaison Group will have their terms of reference and expected outputs approved by Cabinet before they meet.

Part 4, Section 5

Overview and Scrutiny Procedure Rules

1. Form and Composition of Overview and Scrutiny

The Council will have an Overview and Scrutiny Committee and Budget and Performance Panel each of 9 Members as set out in Article 6 of this Constitution.

In addition, the Overview and Scrutiny Committee may appoint Task Groups (each of a maximum 9 Members as set out in Article 6 of this Constitution) for a fixed period, on the expiry of which they shall cease to exist. The number of Task Groups active at anyone time will be kept under review by the parent Overview and Scrutiny Committee.

Overview and Scrutiny meetings shall as a general principle meet in public, unless considering information classed as 'exempt' under Part 4, Section 2, Subsection 10.04 of this Constitution. This does not preclude but encourages flexible and innovative working such as the delegation of tasks to a Member or a small informal working group of Members meeting out of the public arena, consultations or any other form of working. Such working will be reported back to the relevant Overview and Scrutiny meeting.

In these procedure rules the terms 'Overview and Scrutiny' and 'Overview and Scrutiny meeting' shall be used to refer to the Overview and Scrutiny Committee, Budget and Performance Panel and Task Groups collectively.

2. Task Groups

The Overview and Scrutiny Committee will decide whether a Task Group should be formal and report directly to Cabinet or Council (subject to proportionality and Access to Information Rules) or exceptionally back to the Overview and Scrutiny Committee (not subject to proportionality and Access to Information Rules).

Task Groups may be established to undertake specific project work, policy development, a specific task, consultation, review investigation or similar activity. Task Groups would normally only make one final report during their lifetime.

Formally constituted Task Groups will be subject to Overview and Scrutiny Procedure Rules and Access to Information provisions. Named substitutes appointed at the establishment of the Task Group will be permitted.

At the first meeting of each new Task Group, they will carry out a stakeholder analysis exercise to determine who should be involved with their work and who should give evidence and who should be consulted. The stakeholder analysis will also highlight potential co-optees.

Task Groups may appoint any number of people (excluding other members of staff or Councillors) as non-voting co-optees to assist in any item of business, as they deem appropriate. Members of staff and other Councillors cannot be co-opted.

Each Task Group will also be required to agree a detailed Work Programme to enable them to complete their task within the agreed timescale.

3. Who May Sit on Overview and Scrutiny?

All Councillors with the exception of Members of the Cabinet may be appointed to one or more of the above Overview and Scrutiny meetings. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

At the first meeting of the Overview and Scrutiny Committee following the Annual Business Council meeting and on the establishment of a new Task Group the Overview and Scrutiny Committee shall in respect of each Task Group appoint one of its number to sit on each Task Group as the designated link Member.

The designated link Member to Budget and Performance Panel and Task Groups will:

- Provide expertise, assistance and guidance.
- Keep the Overview and Scrutiny Committee updated on progress.
- Help facilitate the smooth running of the Overview and Scrutiny function.
- Be a full Member of the Panel or Task Group and eligible to be the Chairman or Vice-Chairman.

The political groups will allocate Members to Task Groups according to proportionality, which shall be appointed under delegated authority by the Head of Administration Services in consultation with the Chairman or in their absence the Vice Chairman of the Overview and Scrutiny Committee.

Each group may appoint up to a maximum of two named substitutes for each Overview and Scrutiny meeting (excluding informal Task Groups) for the Municipal Year. Casual substitutions will not be allowed.

Substitute Members will have all the powers and duties of any ordinary Member of the meeting. Substitutes for the Overview and Scrutiny Committee will not be able to exercise any special powers or duties exercisable by the person they are substituting, such as counting as Members of Overview and Scrutiny Committee with regard to the quorum needed to trigger a Call-in request.

4. Involvement with Overview and Scrutiny

Any person including Members and staff may be invited to attend, present evidence or share their expertise with any Overview and Scrutiny meeting in accordance with Procedure Rule 15. Requests for staff to attend should be made through the Head of Paid Service.

5. Meetings of Overview and Scrutiny Committee and Budget and Performance Panel

The Overview and Scrutiny Committee and Budget and Performance Panel will meet regularly on dates to be determined by Council on an annual basis.

They may agree to hold additional meetings as required.

6. Meetings of Task Groups

Each Task Group shall determine the frequency, times and venues of their own meetings, in accordance with the timetable for the completion of their task as set out in their Terms of Reference.

7. Quorum

The quorum for all Overview and Scrutiny meetings is three voting Members.

8. Who Chairs meetings?

- (a) The Chairman of the Overview and Scrutiny Committee and Budget and Performance Panel will be appointed by Council, with only Non-Cabinet Councillors entitled to vote.
- (b) The Chairmen of Task Groups will be appointed by the Task Groups, from amongst their number and may be from any political group.
- (c) The Chairman and Vice Chairman of the Overview and Scrutiny Committee and Budget and Performance Panel shall not be Members of the largest political group, which has Members serving on the Cabinet.
- (d) In the event of a change of numbers in the political groups so that a different political group becomes the largest political group which has Members serving on the Cabinet, the Chairman or Vice Chairman who is a Member of that Group shall remain Chairman or Vice Chairman until the next meeting of the Overview and Scrutiny Committee following the change of numbers.

9. Work Programme

- (a) The Overview and Scrutiny Committee and Budget and Performance Panel will be responsible for setting their own Annual Work programme within the Terms of Reference set out in Part 3, Sections 10 and 11 of this Constitution.

The Overview and Scrutiny Committee shall write to all Councillors, Chief Executive, Corporate Directors and Service Heads and ask the public for issues that should be considered for inclusion in the Scrutiny Work Programme. Issues will be assessed by the Committee using a template to determine the salience of the issue based on risk management, corporate priorities and other relevant factors.

10. Agenda Items

- (a) Any Member of the Overview and Scrutiny Committee and Budget and Performance Panel shall be entitled to give notice to the Corporate Director (Central Services) that they wish an item relevant to the Terms of Reference of the meeting of which they are a member to be included on the agenda for the first available meeting. The meeting will determine whether the issue should be included in its Work Programme based on its relevance as compared to the priorities as set out in the Scrutiny Work Programme.
- (b) Any three Members of the Council may give written notice to the Corporate Director (Central Services) that they wish an item to be considered for inclusion in the Scrutiny Work Programme. If the Corporate Director (Central Services) receives such a notification, then he will refer the request to the first available meeting of the Overview and Scrutiny Committee who will determine if, when and how the item will be considered based on its relevance as compared to the priorities as set out in the Scrutiny Work Programme and inform Administration Services accordingly so that it can be included in the Work Programme.

- (c) The Overview and Scrutiny Committee shall respond, as soon as their work programme permits, to requests from the Council and Cabinet to undertake a piece of work on their behalf in line with the procedure in (b) above. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet or Council. Council or Cabinet shall consider the report of Overview and Scrutiny at its first available meeting.

11. Policy Review and Development

- (a) The role of Overview and Scrutiny in relation to the development of the Council's existing Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules in Part 4, Section 3 of the Constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of the Budget and Policy Framework, the Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations, subject to finance being available. They may invite witnesses to attend to address them on any matter under consideration.
- (c) Once it has formed recommendations on proposals for policy development, Overview and Scrutiny will prepare a formal report for consideration by the Cabinet or Council.
- (d) Cabinet or Council shall consider the report of Overview and Scrutiny at their first available meeting.
- (e) The Overview and Scrutiny Committee will have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from Overview and Scrutiny following a consideration of possible policy/service developments, the Overview and Scrutiny Committee will be able to respond in the course of the Cabinet's consultation process in relation to any Key Decision.

12. Process for Overview and Scrutiny reports to be considered by the Cabinet or Council

Once Overview and Scrutiny has completed its deliberations on any matter, it will forward a copy of its final report to the Monitoring Officer who will allocate it either to the Cabinet, Council or Audit Committee according to whether the contents of the report are within or contrary to the Council's existing Budget and Policy Framework.

13. Rights of Overview and Scrutiny Members to Documents

- (a) The rights of Members of Overview and Scrutiny regarding access to documents are set out in the Access to Information Procedures Rule in Part 4, Section 2 of this Constitution.
- (b) Nothing prevents more detailed liaison between the Cabinet and Overview and Scrutiny as appropriate depending on the particular matter under consideration.

14. Members and Officers Giving Account

- (a) Any Overview and Scrutiny meeting may scrutinise and review decisions made, or actions taken in connection with the discharge of any Council functions within its Terms of Reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member(s) of the Cabinet, Chairman of Council Committee and/or Chief Officers to attend before it to explain, answer questions, or give evidence in relation to matters within their remit regarding:
- (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or
 - (iii) their performance
- and it is the duty of those persons to attend if so required.
- (b) Where any Member of the Cabinet or Chief Officer is required to attend an Overview and Scrutiny meeting under this provision, the Chairman of that meeting will inform the Head of Paid Service. This power may be exercised by the Chairman of an Overview and Scrutiny meeting in advance of a meeting. The Head of Paid Service shall inform the Cabinet Member and/or appropriate Officer in writing, giving at least 5 working days notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced. Where papers are required to be produced then the Cabinet Member, or appropriate Officer concerned, will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Cabinet Member or Chief Officer is unable to attend on the required date, then the Overview and Scrutiny meeting shall in consultation with the Cabinet Member or appropriate officer, arrange an alternative date for attendance or in the case of officers request a suitable replacement to be agreed by the Head of Paid Service.

15. Attendance by Others

- (a) An Overview and Scrutiny meeting may invite any person to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and representatives from other parts of the public sector and shall invite such people to attend. Attendance under this paragraph is entirely optional.
- (b) Power to issue an invitation may be exercised by the Chairman of an Overview and Scrutiny meeting in advance of a meeting.
- (c) As a general principle Overview and Scrutiny meetings, including the consideration of Call-in decisions, should be open to any interested Councillor or group of Councillors such as a relevant Task Group and their attendance encouraged and contributions welcomed at the discretion of the Chairman.

16. Call-In Arrangements

Call-in should only be used in exceptional circumstances. 'Exceptional circumstances' are where Members of the Overview and Scrutiny Committee have evidence which suggests that the decision in question will not be, or has not been made, in accordance with the principles set out in Article 13 (Decision Making).

- (a) When a decision is made by the Cabinet or a Committee of the Cabinet, or a Key Decision is made by an Officer with delegated authority from the Cabinet, or an Area Forum/Committee or under joint arrangements, the decision shall be published, by electronic means and shall be available on the Council website and at the main Offices of the Council normally within 2 days of being made. Members of the Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, 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 5 working days after the publication of the decision, unless there are objections to it and it is Called in.
- (c) During that period, the Chief Executive shall call-in a decision for scrutiny by the Overview and Scrutiny Committee if so requested by exactly 5 non-Cabinet Councillors, not all of the same political group, of which two must be members of the Overview and Scrutiny Committee and shall then notify the decision-maker of the Call-in. The decision shall be considered by the Overview and Scrutiny Committee within 10 days of the decision to Call-in, and, if necessary, this may be dealt with as an item of urgent business at a scheduled meeting of the Overview and Scrutiny Committee within that period.
- (d) If following a request to Call-in, the Overview and Scrutiny Committee does not meet within 10 working days, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting, or the expiry of the 10 day period, whichever is the earlier.
- (e) If, having considered the decision, a majority of the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for further consideration, setting out in writing the nature of its concerns, or refer the matter to Council.
- (f) If the decision is referred back to the decision-maker, the decision-maker shall then re-consider whether or not to amend the decision, before adopting a final decision. If the decision-maker was an officer, this re-consideration shall take place within five days; if the decision-maker was the Cabinet, or one of its Committees, the reconsideration shall take place no later than at the Cabinet's next scheduled meeting. The Overview and Scrutiny Committee will then be notified in writing of the decision within 2 days and the decision implemented in 5 days unless the matter is referred to Council.
- (g) If the matter is referred by the Overview and Scrutiny Committee to Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision in paragraph (h) below. However, if the Council does object, it has no locus to make decisions in respect of a Cabinet decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the

Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, the matter will be re-considered no later than the next scheduled meeting of the Cabinet after the referral from Council. Where the decision was made by an individual, the individual will re-consider within 5 days of the Council referral. Following the re-consideration of the decision, the outcome must be publicised within 2 days and can be implemented with immediate effect.

- (h) If the Council does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting at which the Overview and Scrutiny Committee referral was considered.
- (i) The only exception to these Call-in arrangements is that contained in Rule 17 below.

17. Call-in and Urgency

- (a) The Call-in procedure, set out above, shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the Call-in process would seriously prejudice the Council's or the public's interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one and, therefore, not subject to Call-in. The Chairman of the Overview and Scrutiny Committee must be consulted and the Chief Executive agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman shall be consulted and in their absence the Mayor. In the absence of all three, the Deputy Mayor, or in their absence, the Chief Executive's consent shall suffice. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (b) The operation of the provisions relating to Call-in and urgency shall be monitored annually and a report submitted to Council with proposals for improvement if necessary.

18. Call-in Procedure

In considering a Call-in decision the following procedure will be followed:

- The Councillors who have made the Call-in request (who shall be seated together) will outline the reasons for the Call-in;
- The relevant decision-maker(s), with support from the appropriate officer(s) (who shall be seated together), will outline the reasons for their decision and the issues that they took into account;
- Councillors who are signatories to the Call-in request will have the opportunity to question the decision-maker;
- Other Members of the Overview and Scrutiny Committee will have the opportunity to question the decision-maker;
- At the discretion of the Chairman, other Members present may have the opportunity to question the decision-maker;
- The meeting then moves to forming a decision in accordance with the Council Procedure Rules.

19. The Party Whip

Overview and Scrutiny Committee, Budget and Performance Panel and Task Group members will not be subject to a Party Whip. Each political group will publish annually their policy on whipping and at each meeting Members will be asked to make any declarations of the party whip.

20. Procedure at Overview and Scrutiny Meetings

- (a) Matters for discussion at meetings will reflect the Scrutiny Work Programme or in the case of Task Groups, their Terms of Reference, but each meeting shall consider the following business:
- (i) Minutes of the last meeting;
 - (ii) declarations of interest;
 - (iii) urgent business;
 - (iv) consideration of any decision that has been called-in;*
 - (v) responses from the Cabinet or Council to Overview and Scrutiny reports and Call-ins;*
 - (vi) items raised by Members of the Overview and Scrutiny meeting;
 - (vii) the business otherwise set out on the Agenda for the meeting.

* only applies to the Overview and Scrutiny Committee

- (b) Where Overview and Scrutiny meetings conduct investigations (e.g. with a view to policy development or investigations), they may also invite people to attend to give evidence at meetings, These meetings are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all Members of the Overview and Scrutiny meeting being given the opportunity to ask questions of attendees and to contribute and speak;
 - (ii) that those assisting by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Overview and Scrutiny meeting shall prepare a report for submission to the Cabinet and/or Council as appropriate, and shall make its report and findings public.

21. Matters within the remit of more than one Overview and Scrutiny Meeting

Where a matter for consideration by an Overview and Scrutiny meeting falls within the remit of more than one meeting, the decision as to which meeting will consider it will be resolved by the Overview and Scrutiny Committee.

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(1) Status Of Financial Regulations

Financial regulations provide the framework for managing the authority's financial affairs. They apply to every member and officer of the authority and anyone acting on its behalf.

The regulations identify the financial responsibilities of the full Council, the Cabinet and Overview and Scrutiny, the Chief Executive, the Monitoring Officer, the Chief Financial Officer and other Corporate Directors and Service Heads. Corporate Directors and Service Heads should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. In circumstances where decisions have been delegated or devolved to other responsible officers, references to the Director or Service Head in the regulations should be read as referring to such responsible officers.

All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.

The Head of Financial Services is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the full council for approval. The Head of Financial Services is also responsible for reporting, where appropriate, breaches of the financial regulations to the council and/or to the executive members.

The authority's detailed financial procedures, setting out how the regulations are to be implemented, are attached as appendices to the financial regulations.

Corporate directors and service heads are responsible for ensuring that all staff in their Services are aware of the existence and content of the authority's financial regulations and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their Service(s).

The Head of Financial Services is responsible for issuing advice and guidance to underpin the financial regulations that members, officers and others acting on behalf of the authority are required to follow.

(2) Financial Regulations

FINANCIAL REGULATION A:

FINANCIAL MANAGEMENT

INTRODUCTION

- A1 Financial management covers all financial accountability and responsibilities in relation to the running of the authority, including the policy framework and budget. For further details and information regarding the roles and responsibilities of members and officers, refer to part 4 section 3 of the constitution.

THE FULL COUNCIL

- A2 The full council is responsible for adopting the authority's constitution and members' code of conduct and for approving the policy framework and budget within which the executive operates. It is also responsible for approving and monitoring compliance with the authority's overall framework of accountability and control. The framework is set out in its constitution. The full council is also responsible for monitoring compliance with the agreed policy and related executive decisions.
- A3 The full council is responsible for approving procedures for recording and reporting decisions taken. This includes those Key Decisions delegated by and decisions taken by the council and its committees. These delegations and details of who has responsibility for which decisions are set out in the constitution.

THE EXECUTIVE

The Cabinet

- A4 The Cabinet is responsible for proposing the policy framework and budget to the full council, and for discharging executive functions in accordance with the policy framework and budget.
- A5 Executive decisions can be delegated to a committee of the executive, an officer, an Area Committee, a joint arrangement or another Local Authority.

COMMITTEES OF THE COUNCIL

Overview and Scrutiny

- A6 The Overview and Scrutiny Committee is responsible for scrutinising executive decisions before or after they have been implemented and for holding the Cabinet and its committees to account. Overview and Scrutiny is also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the authority.

Audit Committee

- A7 The Audit Committee has responsibility for corporate governance reports to Full Council. It has right of access to all the information it considers necessary and can consult directly with internal and external auditors. The Committee is responsible for reviewing the external auditor's report and the annual audit letter and internal audit's monitoring and annual reports.

Standards Committee

- A8 The standards committee is established by the full council and is responsible for promoting and maintaining high standards of conduct amongst Councillors. In particular, it is responsible for advising the council on the adoption and revision of its code of conduct, and for monitoring the operation of the code.

Appeals Committee

- A9 The Appeals Committee is responsible for considering appeals made by employees, to determine appeals against Council decisions (where not covered by other statutory provisions).

Other Committees

- A10 Certain planning, highway and licensing matters are not executive functions but are exercised through other committees under powers delegated by the full council. Consideration of officers terms and conditions of service and appointing Corporate Directors and Heads of Services is carried out by the Personnel Committee.

THE STATUTORY OFFICERS

Head of Paid Service (Chief Executive)

- A11 The head of paid service is responsible for the corporate and overall strategic management of the authority as a whole. He or she must report to and provide information for the cabinet, the full council, overview and scrutiny and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The head of paid service is also responsible, together with the monitoring officer, for the system of record keeping in relation to all the full council's decisions (see below).

Monitoring officer (Corporate Director – Central Services)

- A12 The monitoring officer is responsible for promoting and maintaining high standards of financial conduct and therefore provides support to the standards committee. The monitoring officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the full council and/or to the cabinet, and for ensuring that procedures for recording and reporting Key Decisions are operating effectively.
- A13 The monitoring officer must ensure that executive decisions and the reasons for them are made public. He or she must also ensure that council members are aware of decisions made by the Cabinet and its committees and of those made by officers who have delegated executive responsibility.
- A14 The monitoring officer is responsible for advising all councillors and officers about who has authority to take a particular decision.
- A15 The monitoring officer is responsible for advising about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
- A16 The monitoring officer (together with the chief financial officer) is responsible for advising about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be 'contrary to the budget' include:
- initiating a new policy
 - committing expenditure in future years above the budget level
 - incurring internal transfers above virement limits

- causing the total expenditure financed from council tax, grants and corporately held reserves to increase.

A17 The monitoring officer is responsible for maintaining an up-to-date constitution.

Chief Financial Officer (Head of Financial Services)

A18 The Chief Financial Officer has statutory duties in relation to the financial administration and stewardship of the authority. This statutory responsibility cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 1996.

A19 The chief financial officer is responsible for:

- the proper administration of the authority's financial affairs
- setting and monitoring compliance with financial management standards
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- providing financial information
- preparing the revenue budget and capital programme
- treasury management.

A20 Section 114 of the Local Government Finance Act 1988 requires the chief financial officer to report to the full council, cabinet, budget and performance panel and external auditor if the authority or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority
- is about to make an unlawful entry in the authority's accounts.

A21 Section 114 of the 1988 Act also requires:

- the chief financial officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally
- the authority to provide the chief financial officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

A22 The chief financial officer, together with the monitoring officer, is responsible for advising on actions 'contrary to budget' (see A16 above).

CORPORATE DIRECTORS AND SERVICE HEADS

A23 Corporate directors and service heads are responsible for:

- ❑ ensuring that executive members are advised of the financial implications of all proposals and that the financial implications have been agreed by the chief financial officer
- ❑ ensuring that all staff within their services are aware of, understand, have easy access to, and comply with, the content of these Regulations and other internal regulatory documents
- ❑ consulting with the chief financial officer and seeking approval on any matter liable to affect the authority's finances materially, before any commitments are incurred.

OTHER FINANCIAL RESPONSIBILITIES

Virement

A24 The full council is responsible for agreeing procedures for virement of expenditure between budget headings.

A25 Corporate directors and service heads are responsible for agreeing in-year virements within delegated limits, in consultation with the chief financial officer. All virements should be notified to the chief financial officer.

Treatment of Year-End Balances

A26 The full council is responsible for agreeing procedures for carrying forward under and overspendings on budget headings.

Accounting Policies

A27 The chief financial officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

Accounting Records and Returns

A28 The chief financial officer is responsible for determining the accounting procedures and records for the authority.

The Annual Statement of Accounts

A29 The chief financial officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC). The Council has established an Audit Committee with responsibility for approving the annual statement of accounts.

FINANCIAL REGULATION B:

FINANCIAL PLANNING

INTRODUCTION

B1 The Full Council is responsible for agreeing the Authority's policy framework and budget, which will be proposed by the Cabinet. The Budget and Performance Panel will be consulted in the course of preparing proposals and have the opportunity to comment. In terms of financial planning, the key elements are:

- ❑ the Corporate Plan
- ❑ the Best Value Performance Plan
- ❑ the Revenue Budget
- ❑ the Capital Programme.

POLICY FRAMEWORK

- B2 The full council is responsible for approving the policy framework and budget. The policy framework comprises the following plans and strategies:
- ❑ Corporate Plan
 - ❑ Best Value Performance Plan
 - ❑ Community Plan and Local Agenda 21 Strategy
 - ❑ Crime and Disorder Reduction Strategy
 - ❑ Other plans and strategies adopted by the Council as a matter of local choice.
- B3 The full council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework. Furthermore, it has responsibility for determining both the circumstances in which a decision will be deemed to be contrary to the budget or policy framework, and the subsequent action to be taken.
- B4 The full council is responsible for setting the level, if any, at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the council.

Preparation of the Corporate Plan

- B5 The head of paid service is responsible for proposing the corporate plan to the Cabinet for consideration before its submission to the full council for approval.

Preparation of the Best Value Performance Plan

- B6 The head of paid service is responsible for proposing the best value performance plan (BVPP) to the Cabinet for consideration before its submission to the full council for approval.

BUDGETING

Budget Format

- B7 The general format of the budget will be approved by the full council and proposed by the Cabinet on the advice of the chief financial officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

Budget Preparation

- B8 The chief financial officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a general revenue plan on a three-yearly basis for consideration by the Cabinet, before submission to the full council. The full council may amend the budget or ask the Cabinet to reconsider it before approving it.
- B9 The chief financial officer is responsible for issuing guidance on the general content of the budget after consultation with the Corporate Director (Central Services) and Cabinet.
- B10 It is the responsibility of corporate directors and service heads to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.

Budget Monitoring and Control

- B11 The chief financial officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position on a regular basis.
- B12 It is the responsibility of corporate directors and service heads to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the chief financial officer. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the chief financial officer to any problems.

Resource Allocation

- B13 The chief financial officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full council's policy framework.

Preparation of the Capital Programme

- B14 The chief financial officer is responsible for ensuring that a capital programme is prepared on an annual basis and an indicative programme on a five-yearly basis, for consideration by the Cabinet before submission to the full council.

Guidelines

- B15 Guidelines on budget preparation are issued to members and corporate directors and service heads by the Cabinet following agreement with the chief financial officer. The guidelines will take account of:
- legal requirements
 - medium-term planning prospects
 - the corporate plan
 - available resources
 - spending pressures
 - best value and other relevant government guidelines
 - other internal policy documents
 - cross-cutting issues (where relevant).

MAINTENANCE OF PROVISIONS AND RESERVES

- B16 It is the responsibility of the chief financial officer to advise on prudent levels of provisions and reserves for the authority.

FINANCIAL REGULATION C:

RISK MANAGEMENT AND CONTROL OF RESOURCES

INTRODUCTION

- C1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

RISK MANAGEMENT

- C2 The Cabinet is responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Cabinet is also responsible for ensuring that proper insurance exists where appropriate.
- C3 The Corporate Director (Central Services) is responsible for preparing the authority's risk management policy statement and for promoting it throughout the authority. The chief financial officer is responsible for advising the Cabinet on proper insurance cover where appropriate.

INTERNAL CONTROL

- C4 Internal control refers to the systems of control devised by management to help ensure the authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded.
- C5 The chief financial officer is responsible for advising on effective systems of internal control and for reporting regularly to the Cabinet and the Budget and Performance Panel on their appropriateness. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C6 It is the responsibility of corporate directors and service heads to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

AUDIT REQUIREMENTS

- C7 The Accounts and Audit Regulations 1996 issued by the Secretary of State for the Environment require every local authority to maintain an adequate and effective internal audit.
- C8 The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
- C9 The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

PREVENTING FRAUD AND CORRUPTION

- C10 The chief financial officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

ASSETS

- C11 Service heads should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

TREASURY MANAGEMENT

- C12 The authority has adopted the key recommendations of CIPFA's *Treasury Management in Public Services: Code of Practice (the Code)* as detailed below:

Key Recommendation 1

Public service organisations should put in place formal and comprehensive objectives, policies and practices, strategies and reporting arrangements for the effective management and control of their treasury management activities.

Key Recommendation 2

Their policies and practices should make clear the effective management and control of risk and prime objectives of their treasury management activities.

Key Recommendation 3

They should acknowledge that the pursuit of best value in treasury management, and the use of suitable performance measures, are valid and important tools for responsible organisations to employ in support of their business and service objectives; and that within the context of effective risk management, their treasury management policies and practices should reflect this.

- C13 Accordingly, the Authority will create and maintain, as cornerstones for effective treasury management:
- a treasury management policy statement, stating the policies and objectives of its treasury management activities;
 - 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.
- C14 Full Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, and an annual report after its close, in the form prescribed in its TMPs.
- C15 The Authority delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Section 151 Officer, who will act in accordance with the organisation's policy statement and TMPs and, if they is a CIPFA member, CIPFA's *Standard of Professional Practice on Treasury Management*.

STAFFING

- C18 The Head of Paid Service is responsible for determining how officer support for executive and non-executive roles within the authority will be organised.
- C19 The head of paid service is responsible for providing overall management to staff.
- C20 Service Heads are responsible for controlling total staff numbers by:
- ❑ advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels,

- ❑ adjusting the staffing to a level that can be funded within the approved budget provision, and advising Cabinet on any resulting implications for service delivery, with justification of such implications,
- ❑ varying the staffing as necessary within the budget constraint in order to meet changing operational needs,
- ❑ the proper use of appointment procedures.

FINANCIAL REGULATION D: SYSTEMS AND PROCEDURES

INTRODUCTION

D1 Sound systems and procedures are essential to an effective framework of accountability and control.

GENERAL

D2 The chief financial officer is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Any changes required by corporate directors and service heads to the existing financial systems or the establishment of new systems must be approved by the chief financial officer. Service heads, however, are responsible for the proper operation of financial processes in their own service.

D3 Any changes to agreed procedures by service heads, to meet their own specific service needs, should be agreed with the chief financial officer.

D4 Service heads should ensure that their staff receive relevant financial training that has been approved by the chief financial officer.

D5 Service heads must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Service heads must ensure that staff are aware of their responsibilities under freedom of information legislation.

INCOME AND EXPENDITURE

D6 It is the responsibility of service heads to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the service head's behalf, or on behalf of the Cabinet, in respect of payments, income collection, placing orders and completion of returns or documents, together with the limits of their authority. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

PAYMENTS TO EMPLOYEES AND MEMBERS

D7 The chief financial officer is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to members, in accordance with the approved schemes.

TAXATION

- D8 The chief financial officer is responsible for advising service heads, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.
- D9 The chief financial officer is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

TRADING ACCOUNTS/BUSINESS UNITS

- D10 It is the responsibility of the chief financial officer to advise on the establishment and operation of trading accounts and business units.

FINANCIAL REGULATION E:

EXTERNAL ARRANGEMENTS

INTRODUCTION

- E1 The local authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

PARTNERSHIPS

- E2 The Cabinet is responsible for approving delegations, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- E3 The Cabinet can delegate functions – including those relating to partnerships – to officers. These are set out in the scheme of delegation that forms part of the authority's constitution. Where functions are delegated, the Cabinet remains accountable for them to the full council.
- E4 The head of paid service represents the authority on partnership and external bodies, in accordance with the scheme of delegation.
- E5 The monitoring officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the authority.
- E6 The chief financial officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- E7 Corporate directors and service heads are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

EXTERNAL FUNDING

- E8 Corporate directors and Service Heads are responsible for ensuring that appropriate approvals are gained prior to submitting applications for external funding. They are also responsible for ensuring that such applications are in accordance with the budget and policy framework, and that the chief financial officer is notified of all applications prior to them being submitted.
- E9 The chief financial officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts, and maintains a grants register for the authority.

WORK FOR THIRD PARTIES

- E10 The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies.

(3) Financial Procedures

A - Financial Management

FINANCIAL MANAGEMENT STANDARDS

Why is this important?

- 1.01 All staff and members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

Key controls

- 1.02 The key controls and control objectives for financial management standards are:
- (a) their promotion throughout the authority
 - (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Cabinet and full council.

Responsibilities of the Section 151 Officer

- 1.03 To ensure the proper administration of the financial affairs of the authority.
- 1.04 To set the financial management standards and to monitor compliance with them.
- 1.05 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority.
- 1.06 To advise on the key strategic controls necessary to secure sound financial management.
- 1.07 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

Responsibilities of Corporate Directors and Service Heads

- 1.08 To promote the financial management standards (as set by the Section 151 Officer) in their Service(s) and to monitor adherence to the standards and practices, liaising as necessary with the Section 151 Officer.
- 1.09 To promote sound financial practices in relation to the standards, performance and development of staff in their Services.

MANAGING EXPENDITURE

VIREMENT

Why is this important?

- 1.10 Virement is intended to enable the Cabinet, Corporate Directors and Service Heads and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by full Council, to optimise the use of resources.

Key controls

1.11 Key controls relating to virement are:

- (a) The scheme is administered by the Section 151 Officer within the framework set by full Council. It applies to only revenue budgets and not the Capital Programme. Any variations require the approval of full Council.
- (b) The overall budget is proposed by the Cabinet and approved by full Council. Corporate Directors, Service Heads and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or budget headings of expenditure and income. For the purposes of this scheme, a budget heading is considered to be a line in the Budget Book, or, with the agreement of the Section 151 Officer, at a level equivalent to the standard service division and/or the standard subjective grouping as defined by CIPFA's Service Expenditure Analysis.
- (c) Virement must not create additional overall budget liability. Corporate Directors and Service Heads are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they must avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Corporate Directors and Service Heads must plan to fund such commitments from within their own budgets.
- (d) Virement between budget headings must be in support of spending plans that are in accordance with the Council's Policy Framework. They must not result in significant switching of resources between the Council's strategic objectives as set out in its Policy Framework and alter plans that make up the Council's Policy Framework, without the prior approval of full Council. They also must not result in:
 - failure to achieve one or more of the detailed actions and objectives set out in the Council's Policy Framework, or, conversely,
 - the achievement of one or more actions or objectives which have been explicitly excluded from the approved budget for the current financial year, without the prior approval of full Council.
- (e) For the purposes of these procedures and in consultation with budget holders, the Section 151 officer will agree with directors which budgets shall be deemed "controllable" and by whom.
- (f) Nothing in these rules and regulations shall prevent the Cabinet and/or the Chief Executive from incurring expenditure essential to meet any immediate needs created by an *emergency* threatening life and limb or related to major structural damage threatening the fabric of a building. If such a situation arises, the Cabinet and/or the Chief Executive must report to the next full Council meeting, including details of the emergency, remedial action taken, costs and proposals for their financing.

Responsibilities of the Section 151 Officer

1.12 To administer the scheme of virement within the guidelines approved by full Council.

1.13 To prepare jointly with the Corporate Director a report to the Cabinet where virements in excess of delegated limits are proposed.

Responsibilities of Corporate Directors and Service Heads

- 1.14 A Corporate Director or Service Head may exercise virement on budgets under his or her control for amounts within delegated limits on any one budget heading during the year, following notification to the Section 151 Officer and subject to the conditions highlighted in the following paragraphs.
- 1.15 Amounts in excess of delegated limits require the approval of the Cabinet, following a joint report by the Section 151 Officer and the Corporate Director, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial years
- 1.16 Each Corporate Director may determine a framework for the notification and /or monitoring of virements affecting his or her own directorate.

Delegated Limits

- 1.17 The following delegated limits apply to budgets under the control of either a Corporate Director or a Service Head:
- (a) Total virement on any expenditure heading must not exceed £10,000 in any one financial year.
 - (b) Total virement on any income heading must not exceed 50% of any additional income generated (over the approved budget), up to a maximum virement of £10,000 in any one financial year.

Conditions attached to Delegated Limits

- 1.18 The prior approval of Cabinet is required for any virement, of any amount, where it is proposed to:
- vire between budgets of different accountable Cabinet members
 - vire between budgets associated with the revenue financing of the Capital Programme
 - vire out of a budget heading that is deemed outside the control of a Corporate Director or Service Head, for the purposes of the virement scheme.
- 1.19 Virement that is likely to impact on the level of service activity of another Corporate Director or Service Head should be implemented only after agreement with the relevant Corporate Director or Service Head.
- 1.20 Virement between budget headings under the control of different Corporate Directors must be agreed by all Corporate Directors involved.
- 1.21 No virement relating to a specific financial year should be made after 31 March in that year.
- 1.22 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
- (a) the amount is used in accordance with the purposes for which it has been established
 - (b) the Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet.
- 1.23 All virements (and allocations as outlined in section 1.22 above) must be notified to the Section 151 Officer, for updating onto the accounting and reporting systems of the Council.
- 1.24 In the event of any dispute over the appropriateness or justification for any delegated virement proposal between services and/or directorates, the Section 151 officer shall prepare a report to Management Team for arbitration.

TREATMENT OF YEAR-END BALANCES

Why is this important?

- 1.25 The treatment of year end revenue account balances:
- Provides further flexibility in delivery of the Council's objectives in accordance within the Policy Framework;
 - Establishes controls addressing overspendings in any financial year;
 - Removes the incentive to spend up budgets unnecessarily towards the end of a financial year; and
 - Promotes good financial management.

Key controls

- 1.26 The scheme is administered by the Section 151 Officer within guidelines set by full Council. Any variations require the approval of full Council.
- 1.27 The rules below cover arrangements for the transfer of resources between accounting years, ie a carry-forward. For the purposes of this scheme, a budget heading is a line in the Budget Book, or with the agreement of the Section 151 Officer, at a level equivalent to the standard service division and/or the standard subjective grouping as defined by CIPFA's Service Expenditure Analysis.
- 1.28 The carry forward of overspends on services' controllable budgets is automatic, other than under the exceptions set out in this scheme. The carry forward of underspends must be requested, as set out in the details below.
- 1.29 For the purposes of these procedures and in consultation with budget holders, the Section 151 officer will agree with directors which budgets shall be deemed "controllable" and by whom.
- 1.30 The carry forward scheme must not undermine the preparation of the Council's Annual Accounts in accordance with proper accounting practices. Requests for carry forward of underspends which relate to incidences of income and/or expenditure being included within the wrong financial year will not be allowed without the Section 151 Officer's authorisation.
- 1.31 The carrying forward of any revenue account balances does not in any way detract from the financial management responsibilities attached to Corporate Directors and Service Heads in undertaking their duties.
- 1.32 Appropriate accounting procedures must be in operation to ensure that carried forward amounts are correct.

Responsibilities of the Section 151 Officer

- 1.33 To administer the scheme of carry-forward within the guidelines approved by full Council.
- 1.34 To determine the extent of any over- or underspendings in any year in consultation with Corporate Directors and Service Heads.
- 1.35 To report all overspendings and underspendings on service budgets carried forward to the Cabinet and to full Council.

Responsibilities of Corporate Directors and Service Heads

For Accounts relating to 2001/02:

- 1.36 Corporate Directors and Service Heads must submit details and reasons for any carry forward requests to the Section 151 Officer when requested. Cabinet may approve the carry forward of net underspendings on 2001/02 revenue budgets up to a maximum value of £10,000 or 5% of any individual budget heading, whichever is the greater, subject to the Council's approved total revenue budget not being exceeded and unallocated revenue reserves being not less than the approved level on which the budget was based.
- 1.37 Any 2001/02 revenue carry forward requests which fall outside the limits set out in section 1.36 above must be approved by full Council.

For Accounts relating to 2002/03 and future years:

Overspends

- 1.38 Any overspending on service revenue budgets under the control of the Corporate Director or Service Head must be carried forward to the following year and will constitute the first call on service budgets in the following year, subject to the following conditions:
- Where the aggregate overspending of any service is less than £5,000, Cabinet may waive the carry forward requirement.
- 1.39 Corporate Directors and Service Heads must provide reasons for any overspends occurring and details of action taken to prevent the situation recurring.

Underspends

- 1.40 Corporate Directors and Service Heads must submit any carry forward requests to the Section 151 Officer in accordance with the closure of accounts timetable. Cabinet may approve the carry forward of underspendings on revenue budgets under the control of the Corporate Director or Service Head, subject to the following conditions:
- (a) Corporate Directors and Service Heads must provide information regarding the source or reason for the underspend and the proposed application of the resources requested.
 - (b) Where the carry forward request relates (in whole or part) to an underspending on an individual budget heading of more than £10,000 or over 5% of the budget, whichever is greater, full Council approval must be obtained.
 - (c) The Council's approved total revenue budget must not be exceeded and unallocated revenue reserves must not be less than the approved level on which the budget was based.
- 1.41 Any 2002/03 or future years' revenue carry forward requests which fall outside the limits set out in section above must be approved by full Council.
- 1.42 Any internal business unit accumulated surpluses shall be retained for the benefit of the authority and their application shall require the approval of the Cabinet.

ACCOUNTING POLICIES

Why is this important?

- 1.43 The Section 151 Officer is responsible for the preparation of the authority's statement of accounts, in accordance with proper practices as set out in the format required by the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC), for each financial year ending 31 March.

Key controls

- 1.44 The key controls for accounting policies are:
- (a) systems of internal control are in place that ensure that financial transactions are lawful
 - (b) suitable accounting policies are selected and are applied consistently
 - (c) proper accounting records are maintained
 - (d) financial statements are prepared which present fairly the financial position of the authority and its expenditure and income.

Responsibilities of the Section 151 Officer

- 1.45 To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year, and covers such items as:
- (a) separate accounts for capital and revenue transactions
 - (b) the basis on which debtors and creditors at year end are included in the accounts
 - (c) details on substantial provisions and reserves
 - (d) fixed assets
 - (e) depreciation
 - (f) capital charges
 - (g) work in progress
 - (h) stocks and stores
 - (i) deferred charges
 - (j) accounting for value added tax
 - (k) government grants
 - (l) leasing
 - (m) pensions.

Responsibilities of Corporate Directors and Service Heads

- 1.46 To adhere to the accounting policies and guidelines approved by the Section 151 Officer.

ACCOUNTING RECORDS AND RETURNS

Why is this important?

- 1.47 Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources. The authority has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the authority's resources.

Key controls

- 1.48 The key controls for accounting records and returns are:
- (a) all Cabinet members, Financial Services staff and budget managers operate within the required accounting standards and timetables

- (b) all the authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- (c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- (d) reconciliation procedures are carried out to ensure transactions are correctly recorded
- (e) prime documents are retained in accordance with legislative and other requirements.

Responsibilities of the Section 151 Officer

- 1.49 To determine the accounting procedures and records for the authority. Where these are maintained outside of Financial Services, the Section 151 Officer should consult the Corporate Director or Service Head concerned.
- 1.50 To arrange for the compilation of all accounts and accounting records under his or her direction.
- 1.51 To comply with the following principles when allocating accounting duties:
 - (a) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
 - (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
- 1.52 To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations 1996.
- 1.53 To ensure that all claims for funds including grants are made by the due date.
- 1.54 To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable and with the requirement for full Council to approve the statement of accounts before 30 September.
- 1.55 To administer the authority's arrangements for under and overspendings to be carried forward to the following financial year.
- 1.56 To ensure the proper retention of financial documents in accordance with the requirements set out in the authority's document retention schedule.

Responsibilities of Corporate Directors and Service Heads

- 1.57 To consult and obtain the approval of the Section 151 Officer before making any changes to accounting records and procedures.
- 1.58 To comply with the principles outlined above when allocating accounting duties.
- 1.59 To maintain adequate records to provide a management and audit trail leading from the source of income/expenditure through to the accounting statements.
- 1.60 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Section 151 Officer.

THE ANNUAL STATEMENT OF ACCOUNTS

Why is this important?

- 1.61 The authority has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. Full Council is responsible for approving the statutory annual statement of accounts.

Key controls

- 1.62 The key controls for the annual statement of accounts are:
- ❑ the authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs (known as the Section 151 Officer). In this authority, that officer is the Head of Financial Services.
 - ❑ the authority's statement of accounts must be prepared in accordance with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (the SORP) (CIPFA/LASAAC).

Responsibilities of the Section 151 Officer

- 1.63 To select suitable accounting policies and to apply them consistently.
- 1.64 To make judgements and estimates that are reasonable and prudent.
- 1.65 To comply with the Statement of Recommended Practice.
- 1.66 To sign and date the statement of accounts, stating that it presents fairly the financial position of the authority at the accounting date and its income and expenditure for the year ended 31 March.
- 1.67 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

Responsibilities of Corporate Directors and Service Heads

- 1.68 To comply with accounting guidance provided by the Section 151 Officer and to supply the Section 151 Officer with information when required.

B - Financial Planning

PERFORMANCE PLANS

Why is this important?

2.01 Each local authority has a statutory responsibility to publish various performance plans, including best value performance plans, crime reduction strategies, etc. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. The authority is required to publish annually the best value performance plan (BVPP), which summarises its performance and position in relation to best value and it is the responsibility of the Chief Executive to ensure that this is done. The BVPP is a key element in the authority's programme of engaging with the public. External audit is required to report on whether the authority has complied with statutory requirements in respect of the preparation and publication of the BVPP.

Key controls

2.02 The key controls for performance plans are:

- (a) to ensure that all relevant plans are produced and that they are consistent
- (b) to produce plans in accordance with statutory requirements
- (c) to meet the timetables set
- (d) to ensure that all performance information is accurate, complete and up to date
- (e) to provide improvement targets which are meaningful, realistic and challenging.

Responsibilities of the Section 151 Officer

- 2.03 To advise on and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- 2.04 To contribute to the development of corporate and service targets and objectives and performance information.
- 2.05 To ensure that systems are in place to measure financial activity and collect accurate financial information for use as performance indicators.

Responsibilities of Corporate Directors and Service Heads

- 2.06 To contribute to the development of performance plans in line with statutory requirements.
- 2.07 To contribute to the development of corporate and service targets and objectives and performance information.
- 2.08 To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

BUDGETING

FORMAT OF THE BUDGET

Why is this important?

2.09 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

Key controls

2.10 The key controls for the budget format are:

- (a) the format complies with all legal requirements
- (b) the format complies with CIPFA's Best Value Accounting – Code of Practice
- (c) the format reflects the accountabilities of service delivery.

Responsibilities of the Section 151 Officer

2.11 To advise the Cabinet on the format of the budget that is approved by full Council.

Responsibilities of Corporate Directors and Service Heads

2.12 To comply with accounting guidance provided by the Section 151 Officer.

REVENUE BUDGET PREPARATION, MONITORING AND CONTROL

Why is this important?

2.13 Budget management ensures that once the budget has been approved by full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

2.14 By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. The authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the Corporate Directors or Service Heads delegated authority.

Key controls

- 2.16 The key controls for managing and controlling the revenue budget are:
- (a) there is a nominated budget manager for each cost centre or budget heading
 - (b) the extent of a budget manager's control over an individual budget heading is recognised (see procedures under virements section for determination of "controllable" budgets).
 - (c) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
 - (d) budget managers follow an approved certification process for all expenditure
 - (e) income and expenditure are properly recorded and accounted for
 - (f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and the budget.

Responsibilities of the Section 151 Officer

- 2.17 To establish an appropriate framework of budgetary management and control that ensures that:
- (a) budget management is exercised within annual cash limits unless full Council agrees otherwise
 - (b) each Service Head has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
 - (c) expenditure is committed only against an approved budget head
 - (d) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations
 - (e) each cost centre has a single named manager, determined by the relevant Service Head. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure or generates income
 - (f) significant variances from approved budgets are investigated and reported by budget managers regularly.
- 2.18 To administer the authority's scheme of virement.
- 2.19 To submit reports to the Cabinet and to full Council, in consultation with the relevant Corporate Director or Service Head, where a Corporate Director or Service Head is unable to balance expenditure and resources within existing approved budgets under his or her control or service area.
- 2.20 To prepare and submit reports on the authority's projected income and expenditure compared with the budget on a regular basis.

Responsibilities of Corporate Directors and Service Heads

- 2.21 To maintain budgetary control within their Service(s), in adherence to the principles outlined above and to ensure that all income and expenditure are properly recorded and accounted for.
- 2.22 To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Corporate Director or Service Head (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure or generates income.

- 2.23 To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- 2.24 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- 2.25 To prepare and submit to the Cabinet, reports on the service's projected expenditure compared with its budget, in consultation with the Section 151 Officer.
- 2.26 To ensure prior approval by full Council and/or Cabinet (as appropriate) for new proposals, of whatever amount, that:
 - (a) create financial commitments in future years
 - (b) change existing policies, initiate new policies or cease existing policies
 - (c) materially extend or reduce the authority's services.
- 2.27 To ensure compliance with virement procedures.
- 2.28 To agree with the relevant Corporate Director or Service Head where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or their own level of service activity.

BUDGETS AND MEDIUM-TERM PLANNING

Why is this important?

- 2.29 The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully determined priorities. The budget is the financial expression of the authority's plans and policies.
- 2.30 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of full Council. Budgets (spending plans) are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is unlawful for an authority to budget for a deficit.
- 2.31 Medium-term planning (or a three to five-year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance.

Key controls

- 2.32 The key controls for budgets and medium-term planning are:
 - (a) specific budget approval for all expenditure
 - (b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered
 - (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

Responsibilities of the Section 151 Officer

- 2.33 To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.

- 2.34 To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by full Council, and after consultation with the Cabinet and Corporate Directors and Service Heads.
- 2.35 To support Service Heads as required in their preparation of income and expenditure budgets, and to consult with them in providing that support.
- 2.36 To prepare and submit reports to the Cabinet on the aggregate spending plans of Services and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- 2.37 To advise on the medium-term implications of spending decisions.
- 2.38 To encourage the best use of resources and value for money by working with Corporate Directors and Service Heads to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 2.39 To advise full Council on Cabinet proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

Responsibilities of Corporate Directors and Service Heads

- 2.40 To prepare estimates of income and expenditure in consultation with the Section 151 Officer and in accordance with any relevant cash limits.
- 2.41 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- 2.42 In consultation with the Section 151 Officer and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the appropriate committee.
- 2.43 When drawing up draft budget requirements, to have regard to:
 - (a) spending patterns and pressures revealed through the budget monitoring process
 - (b) legal requirements
 - (c) policy requirements as defined by full Council in the approved policy framework
 - (d) initiatives already under way.

RESOURCE ALLOCATION

Why is this important?

- 2.44 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

Key controls

- 2.45 The key controls for resource allocation are:
 - (a) resources are acquired in accordance with the law and using an approved authorisation process
 - (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for
 - (c) resources are securely held for use when required

- (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

Responsibilities of the Section 151 Officer

- 2.46 To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- 2.47 To assist in the allocation of resources to budget managers.

Responsibilities of Corporate Directors and Service Heads

- 2.48 To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- 2.49 To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

CAPITAL PROGRAMMES

Why is this important?

- 2.50 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- 2.51 The Government places strict controls on the financing capacity of the authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

Key controls

- 2.52 The key controls for capital programmes are:
- (a) specific approval by full Council for the programme of capital expenditure and associated revenue implications, including future years
 - (b) commencement of a capital scheme is subject to the approval of the Section 151 Officer (to confirm availability of funding)
 - (c) a scheme and estimate, including project plan, progress targets and associated revenue expenditure, and the availability of funding, is prepared for each capital project prior to commencement, for approval by the Cabinet
 - (d) approval by the Cabinet where new proposed capital schemes arising during the course of a year are to be financed (in full or part) from within the approved revenue budget or from earmarked reserves, and subject to the approval of full Council where the scheme cannot be met from within the approved revenue budget and/or where there are net revenue costs in future years.
 - (e) approval by the Cabinet where new proposed capital schemes arising during the course of a financial year are to be financed from external grants and contributions, credit approvals and/or capital receipts, and subject to the approval of full Council where there are net revenue costs in future years.
 - (f) Cabinet may meet increases in the cost of schemes of up to 5% or £10,000, whichever is greater, by virement from savings elsewhere within the capital programme. The maximum that may be vired from any one scheme is £10,000 or 5%, whichever is greater.

- (f) proposals for improvements and alterations to buildings must be approved by the appropriate Corporate Director or Service Head.
- (g) schedules for individual schemes within the overall capital budget approved by full Council (for example, minor works and grants) must be submitted to the Cabinet for approval, or under other arrangements approved by Cabinet.
- (h) the development and implementation of asset management plans.
- (i) accountability for each proposal is accepted by a named manager.
- (j) monitoring of progress is undertaken in conjunction with expenditure and comparison with approved budget.

Responsibilities of the Section 151 Officer

- 2.53 To prepare capital estimates jointly with Corporate Directors or Service Heads and the Chief Executive and to report them to the Cabinet for consideration. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to full Council.
- 2.54 To prepare and submit reports to the Cabinet on the overall projected income, expenditure and resources compared with the approved estimates.
- 2.55 To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques and capital finance legislation. The definition of 'capital' will be determined by the Section 151 Officer, having regard to government regulations and accounting requirements. A copy of the current definition is attached to these procedures.
- 2.56 To advise Cabinet, Corporate Directors and Service Heads on the availability of funding with regard to the commencement of capital schemes.

Responsibilities of Corporate Directors and Service Heads

- 2.57 To comply with guidance concerning capital schemes and controls issued by the Section 151 Officer.
- 2.58 To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Section 151 Officer.
- 2.59 To prepare regular reports reviewing the capital programme provisions for their services. They should also prepare a quarterly return of estimated final costs of schemes in the approved capital programme for submission to the Section 151 Officer.
- 2.60 To ensure that adequate records are maintained for all capital contracts.
- 2.61 To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Section 151 Officer
- 2.62 To prepare and submit reports to the Cabinet, and in consultation with the Section 151 Officer, of any variation in contract costs greater than the approved values/limits as set under the Contract.
- 2.63 To prepare and submit reports to the Cabinet, and in consultation with Section 151 Officer, on completion of all contracts or schemes where the final expenditure exceeds the approved contract sum and/or budget by £5,000 or more (for contract sums less than £100,000), or 5% (for contract sums £100,000 and above).
- 2.64 To ensure that credit arrangements, including for these purposes, all leasing agreements, are not entered into without the prior approval of the Section 151 Officer and, if applicable, approval of the scheme through the capital programme.

- 2.65 To consult with the Section 151 Officer and to seek Cabinet approval where the Corporate Director or Service Head proposes to bid for or use Basic or Supplementary Credit Approvals not anticipated in the capital programme, and/or to support expenditure that has not been included in the current year's capital programme. This is because the extra borrowing may create future commitments to financing costs.

MAINTENANCE OF RESERVES

Why is this important?

- 2.66 The local authority must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

Key controls

- 2.67 To maintain reserves in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC) and agreed accounting policies.
- 2.68 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- 2.69 Cabinet approval is required to set up any new specific earmarked reserves.
- 2.70 Expenditure from reserves must be authorised by the appropriate Corporate Director or Service Head in consultation with the Section 151 Officer.

Responsibilities of the Section 151 Officer

- 2.71 To advise the Cabinet and/or full Council on prudent levels of reserves for the authority, and to take account of the advice of the external auditor in this matter.
- 2.72 To ensure proper practices are observed in accounting for reserves.

Responsibilities of Corporate Directors and Service Heads

- 2.73 To ensure that resources are used only for the purposes for which they were intended.

C - Risk Management and Control of Resources

RISK MANAGEMENT

Why is this important?

- 3.01 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.
- 3.02 It is the overall responsibility of the Cabinet to approve the authority's risk management strategy, and to promote a culture of risk management awareness throughout the authority.

Key controls

- 3.03 The key controls for risk management are:
- (a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the authority
 - (b) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis
 - (c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives
 - (d) provision is made for losses that might result from the risks that remain
 - (e) procedures are in place to investigate claims within required timescales
 - (f) acceptable levels of risk are determined and insured against where appropriate
 - (g) the authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

Responsibilities of the Corporate Director - Central Services

- 3.04 To prepare and promote the authority's risk management policy statement.
- 3.05 To develop risk management controls in conjunction with other Corporate Directors and Service Heads.

Responsibilities of the Section 151 Officer

- 3.06 To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.
- 3.07 To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

Responsibilities of Corporate Directors and Service Heads

- 3.08 To notify the Section 151 Officer immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the Section 151 Officer or the authority's insurers.
- 3.09 To take responsibility for risk management, having regard to advice from the Corporate Director – central services and the Section 151 Officer and other specialist officers (eg health and safety).
- 3.10 To ensure that there are regular reviews of risk within their Service.
- 3.11 To notify the Section 151 Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- 3.12 To consult the Section 151 Officer and the head of legal services on the terms of any indemnity that the authority is requested to give.
- 3.13 To ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

INTERNAL CONTROLS

Why is this important?

- 3.14 The authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- 3.15 The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- 3.16 The authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- 3.17 The system of internal controls is established in order to provide measurable achievement of:
 - (a) efficient and effective operations
 - (b) reliable financial information and reporting
 - (c) compliance with laws and regulations
 - (d) risk management.

Key controls

- 3.18 The key controls and control objectives for internal control systems are:
 - (a) key controls should be reviewed on a regular basis and the authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
 - (b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
 - (c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems

- (d) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board's auditing guideline *Guidance for Internal Auditors*, CIPFA's *Code of Practice for Internal Audit in Local Government in the United Kingdom* and with any other statutory obligations and regulations.

Responsibilities of the Section 151 Officer

- 3.19 To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

Responsibilities of Corporate Directors and Service Heads

- 3.20 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- 3.21 To review existing controls in the light of changes affecting the authority and to establish and implement new ones in line with guidance from the Corporate Director – Central Services and/or Section 151 Officer. Corporate Directors and Service Heads should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
- 3.22 To ensure staff have a clear understanding of the consequences of lack of control.

AUDIT REQUIREMENTS

Internal audit

Why is this important?

- 3.23 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 1996 (SI 1996/590), regulation 5, more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems”.
- 3.24 Accordingly, internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

Key controls

- 3.25 The key controls for internal audit are:
- (a) that it is independent in its planning and operation
 - (b) the head of internal audit has direct access to the head of paid service, all levels of management and directly to elected members
 - (d) the internal auditors comply with the Auditing Practices Board's guideline *Guidance for Internal Auditors*, as interpreted by CIPFA's *Code of Practice for Internal Audit in Local Government in the United Kingdom*.

Responsibilities of the Section 151 Officer

- 3.26 To ensure that internal auditors have the authority to:
- (a) access authority premises at reasonable times
 - (b) access all assets, records, documents, correspondence and control systems
 - (c) receive any information and explanation considered necessary concerning any matter under consideration
 - (d) require any employee of the authority to account for cash, stores or any other authority asset under his or her control
 - (e) access records belonging to third parties, such as contractors, when required
 - (g) directly access the head of paid service, the Cabinet and Overview and Scrutiny, where appropriate.
- 3.27 To ensure that effective procedures are in place to investigate promptly any alleged or suspected fraud or irregularity.

Responsibilities of the Internal Audit Manager

- 3.28 To prepare strategic and annual audit plans, which take account of the characteristics and relative risks of the activities involved, in consultation with the Chief Executive, Corporate Directors and the Section 151 Officer, for referral on to the Audit Committee.

Responsibilities of Corporate Directors and Service Heads

- 3.29 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- 3.30 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- 3.31 To consider and respond promptly to recommendations in audit reports.
- 3.32 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 3.33 To notify the Section 151 Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the Corporate Director or Service Head should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 3.34 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the head of internal audit prior to implementation.

External audit

Why is this important?

- 3.35 The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.

- 3.36 The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice issued in March 2000 sets out the auditor's objectives to review and report upon:
- (a) the financial aspects of the audited body's corporate governance arrangements
 - (b) the audited body's financial statements
 - (c) aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information and compliance in respect of the preparation and publication of the BVPP.
- 3.37 The authority's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the authority and its income and expenditure for the year in question and complies with the legal requirements.

Key controls

- 3.38 External auditors are appointed by the Audit Commission normally for a minimum period of five years. The Audit Commission prepares a code of audit practice, which external auditors follow when carrying out their audits.

Responsibilities of the Corporate Director (Central Services)

- 3.39 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- 3.40 To ensure there is effective liaison between external and internal audit.
- 3.41 To work with the external auditor and advise full Council, Cabinet and Corporate Directors and Service Heads on their responsibilities in relation to external audit.

Responsibilities of Corporate Directors and Service Heads

- 3.42 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- 3.43 To ensure that all records and systems are up to date and available for inspection.

PREVENTING FRAUD AND CORRUPTION

Why is it this important?

- 3.44 The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.
- 3.45 The authority's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 3.46 The authority also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

Key controls

- 3.47 The key controls regarding the prevention of financial irregularities are that:
- (a) the authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption
 - (b) all members and staff act with integrity and lead by example
 - (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt
 - (d) high standards of conduct are promoted amongst members by the standards committee
 - (e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
 - (f) whistle blowing procedures are in place and operate effectively
 - (g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

Responsibilities of the Section 151 Officer

- 3.48 To develop and maintain an anti-fraud and anti-corruption policy.
- 3.49 To maintain adequate and effective internal control arrangements.
- 3.50 To ensure that all suspected irregularities are reported to the head of internal audit, the head of paid service, the Cabinet and the Budget and Performance Panel.

Responsibilities of Corporate Directors and Service Heads

- 3.51 To ensure that all suspected irregularities are reported to the head of internal audit.
- 3.52 To instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- 3.53 To ensure that where financial impropriety is discovered, the Section 151 Officer is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
- 3.54 To ensure that officers pecuniary interests are recorded in the register of interests maintained by Administration Services.

ASSETS

Security

Why is this important?

- 3.55 The authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

Key controls

- 3.56 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:
- (a) resources are used only for the purposes of the authority and are properly accounted for
 - (b) resources are available for use when required
 - (c) resources no longer required are disposed of in accordance with the law and the regulations of the authority so as to maximise benefits
 - (d) an asset register is maintained for the authority, assets are recorded when they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset
 - (e) all staff are aware of their responsibilities with regard to safeguarding the authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation
 - (f) all staff are aware of their responsibilities with regard to safeguarding the security of the authority's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's computer and internet security policies.

Responsibilities of the Section 151 Officer

- 3.57 To ensure that an asset register is maintained in accordance with good practice for all fixed assets, and in accordance with the relevant de minimis values included within the Council's accounting policies. The function of the asset register is to provide the authority with information about fixed assets so that they are:
- safeguarded
 - used efficiently and effectively
 - adequately maintained.
- 3.58 To receive the information required for accounting, costing and financial records from each Service Head.
- 3.59 To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC).

Responsibilities of Corporate Directors and Service Heads

- 3.60 The appropriate Corporate Director or Service Head shall maintain a property database in a form approved by the Section 151 Officer for all properties, plant and machinery and moveable assets currently owned or used by the authority. Any use of property by a Service or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- 3.61 To ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Head of Property Services in consultation with the Section 151 Officer and the Head of Legal services, has been established as appropriate.
- 3.62 To ensure the proper security of all buildings and other assets under their control.
- 3.63 Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a report by the Head of Property Services and in conjunction with the Section 151 Officer.

- 3.64 To pass title deeds to the Head of Legal Services who is responsible for custody of all title deeds.
- 3.65 To ensure that no authority asset is subject to personal use by an employee without proper authority.
- 3.66 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority.
- 3.67 To ensure that the Service maintains a register of moveable assets in accordance with arrangements defined by the Section 151 Officer.
- 3.68 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- 3.69 To consult the Section 151 Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 3.70 To ensure cash holdings on premises are kept to a minimum.
- 3.71 To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Section 151 Officer as soon as possible.
- 3.72 To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Section 151 Officer, the Cabinet agrees otherwise.
- 3.73 To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Section 151 Officer.
- 3.74 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.

Inventories

- 3.75 To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above £10 in value.
- 3.76 To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.
- 3.77 To make sure that property is only used in the course of the authority's business, unless the Corporate Director or Service Head concerned has given permission otherwise.

Stocks and stores

- 3.78 To make arrangements for the care and custody of stocks and stores in their Service.
- 3.79 To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- 3.80 To investigate and remove from the authority's records (ie write off) discrepancies as necessary, or to obtain Cabinet approval if they are in excess of £50 for individual items or the aggregate value of disposals.

- 3.81 To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the Section 151 Officer, the Cabinet decides otherwise in a particular case.
- 3.82 To seek Cabinet approval to the write-off of redundant stocks and equipment in excess of £50 for individual items or the aggregate value of disposals.

Intellectual property

Why is this important?

- 3.83 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.
- 3.84 Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

Key controls

- 3.85 In the event that the authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the authority's approved intellectual property procedures.

Responsibilities of the Section 151 Officer

- 3.86 To develop and disseminate good practice through the authority's intellectual property procedures.

Responsibilities of Corporate Directors and Service Heads

- 3.87 To ensure that controls are in place to ensure that staff do not carry out private work in council time and that staff are aware of an employer's rights with regard to intellectual property.

Asset disposal

Why is this important?

- 3.88 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the authority.

Key controls

- 3.89 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.
- 3.90 Procedures protect staff involved in the disposal from accusations of personal gain.

Responsibilities of the Section 151 Officer

- 3.91 To issue guidelines representing best practice for disposal of assets.
- 3.92 To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

Responsibilities of Corporate Directors and Service Heads

- 3.93 To seek advice from the Section 151 Officer and / or Head of Property Services on the disposal of surplus or obsolete materials, stores or equipment or property.
- 3.94 To ensure that income received for the disposal of an asset is properly banked and coded.

TREASURY MANAGEMENT

Why is this important?

- 3.95 Many millions of pounds pass through the authority's books each year. This led to the establishment of a code of practice, which aims to provide assurances that the authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the authority's capital sum.

Key controls

- 3.96 The authority's borrowings and investments comply with the CIPFA *Code of Practice on Treasury Management* and with the authority's treasury policy statement.
- 3.97 Full Council receive and review reports on treasury management policies, practices and activities.
- 3.98 Cabinet approve the authority's treasury management policy, practices and activities on advice from the Section 151 Officer.

Responsibilities of Section 151 Officer

Treasury management and banking

- 3.97 To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management* and the authority's treasury management policy statement, strategy and practices.
- 3.98 To report to full Council an annual strategy and plan in advance of the year and an annual report after its close, in the form prescribed by the Council's Treasury Management Practices.
- 3.99 To make recommendations to Cabinet regarding treasury management policies, strategies and practices.
- 3.100 To operate bank accounts as considered necessary. The opening or closing of any bank account shall require the formal approval of the Section 151 Officer.

Investments and borrowing

- 3.101 To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by full Council.
- 3.102 To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority's ownership are held in the custody of the Head of Legal Services.
- 3.103 To effect all borrowings in the name of the authority.

- 3.104 To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

Imprest accounts

- 3.105 To provide employees of the authority with cash or bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed £20.
- 3.106 To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- 3.107 To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly

Responsibilities of Corporate Directors and Service Heads

Treasury management and banking

- 3.108 To follow the instructions on banking issued by the Section 151 Officer.

Investments and borrowing

- 3.109 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of full Council, following consultation with the Section 151 Officer.

Trust funds and funds held for third parties

- 3.110 To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Head of Legal Services, unless the deed otherwise provides.
- 3.111 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Section 151 Officer, and to maintain written records of all transactions.
- 3.112 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

Imprest accounts

- 3.113 To ensure that employees operating an imprest account:
- (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
 - (b) make adequate arrangements for the safe custody of the account
 - (c) produce upon demand by the Section 151 Officer cash and all vouchers to the total value of the imprest amount
 - (d) record transactions promptly
 - (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
 - (f) provide the Section 151 Officer with a certificate of the value of the account held at 31 March each year
 - (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made

- (h) on leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Section 151 Officer for the amount advanced to him or her.

STAFFING

Why is this important?

3.114 In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

Key controls

3.115 The key controls for staffing are:

- (a) an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched
- (b) procedures are in place for forecasting staffing requirements and costs
- (c) the budget framework for staffing costs is defined and controls are implemented to ensure that budgets for current and future years are not exceeded without Council approval.
- (d) controls are implemented that ensure that staff time is used efficiently and to the benefit of the authority
- (e) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

Responsibilities of the Section 151 Officer

3.116 To ensure that budget provision exists for all existing and approved new employees.

3.117 To ensure procedures are in place for forecasting staffing costs.

3.118 To act as an advisor to Corporate Directors and Service Heads on areas such as the budget framework and forecasting, National Insurance and pension contributions, as appropriate.

Responsibilities of Corporate Directors and Service Heads

3.119 To produce an annual staffing budget.

3.120 To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

3.121 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

3.122 To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

3.123 To ensure that the Head of Personnel and the Section 151 Officer are immediately informed if the staffing budget is likely to be materially over or underspent.

D - Financial Systems and Procedures

GENERAL

Why is this important?

- 4.01 Services have many systems and procedures relating to the control of the authority's assets, including purchasing, costing and management systems. Services are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 4.02 The Section 151 Officer has a professional responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

Key controls

- 4.03 The key controls for systems and procedures are:
- (a) basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
 - (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis
 - (c) early warning is provided of deviations from target, plans and budgets that require management attention
 - (d) operating systems and procedures are secure.

Responsibilities of the Section 151 Officer

- 4.04 To make arrangements for the proper administration of the authority's financial affairs, including to:
- (a) issue advice, guidance and procedures for officers and others acting on the authority's behalf
 - (b) determine the accounting systems, form of accounts and supporting financial records
 - (c) establish arrangements for audit of the authority's financial affairs
 - (d) approve any new financial systems to be introduced
 - (e) approve any changes to be made to existing financial systems.

Responsibilities of Corporate Directors and Service Heads

- 4.05 To ensure that accounting records are properly maintained and held securely.
- 4.06 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Section 151 Officer.
- 4.07 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- 4.08 To incorporate appropriate controls to ensure that, where relevant:
- (a) all input is genuine, complete, accurate, timely and not previously processed

- (b) all processing is carried out in an accurate, complete and timely manner
 - (c) output from the system is complete, accurate and timely.
- 4.09 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- 4.10 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- 4.11 To ensure that systems are documented and staff trained in operations.
- 4.12 To consult with the Section 151 Officer before changing any existing system or introducing new systems.
- 4.13 To establish a scheme of delegation identifying officers authorised to act upon the Corporate Director's or Service Head's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- 4.14 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Section 151 Officer, together with any subsequent variations.
- 4.15 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- 4.16 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- 4.17 To ensure that relevant standards and guidelines for computer systems are observed.
- 4.18 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- 4.19 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- (a) only software legally acquired and installed by the authority is used on its computers
 - (b) staff are aware of legislative provisions
 - (c) in developing systems, due regard is given to the issue of intellectual property rights.

INCOME AND EXPENDITURE

Income

Why is this important?

- 4.20 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the authority's cashflow and also avoids the time and cost of administering debts.

Key controls

- 4.21 The key controls for income are:
- (a) all income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
 - (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery

- (c) all money received by an employee on behalf of the authority is paid without delay to central cashiers or, as directed by the Section 151 Officer, to the authority's bank account, and properly recorded. The responsibility for cash collection should be separated from that:
 - for identifying the amount due
 - for reconciling the amount due to the amount received
- (d) effective action is taken to pursue non-payment within defined timescales
- (e) formal approval for debt write-off is obtained
- (f) appropriate write-off action is taken within defined timescales
- (g) appropriate accounting adjustments are made following write-off action
- (h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- (i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

Responsibilities of the Section 151 Officer

- 4.22 To agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection.
- 4.23 To order and supply to Services all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- 4.24 To agree the write-off of bad debts up to £50 (or £150 in the case of Council Housing and Revenues Services write-offs) in each case and to refer larger sums to the Cabinet.
- 4.25 To approve all debts to be written off in consultation with the relevant Service Head and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations 1996.
- 4.26 To obtain the approval of the Cabinet in consultation with the relevant Service Head for writing off debts in excess of the approved limit.
- 4.27 To ensure that appropriate accounting adjustments are made following write-off action.

Responsibilities of Corporate Directors and Service Heads

- 4.28 To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- 4.29 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- 4.30 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- 4.31 To issue official receipts or to maintain other documentation for income collection.
- 4.32 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- 4.33 To hold securely receipts, tickets and other records of income for the appropriate period.
- 4.34 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.

- 4.35 To ensure that income is paid fully and promptly into central cashiers or directly into the authority's bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- 4.36 To ensure income is not used to cash personal cheques or other payments.
- 4.37 To supply the Section 151 Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Section 151 Officer to record correctly the sums due to the authority and to ensure accounts are sent out promptly. To do this, Corporate Directors and Service Heads should use established performance management systems to monitor recovery of income and flag up areas of concern to the Section 151 Officer. Corporate Directors and Service Heads have a responsibility to assist the Section 151 Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the authority's behalf. Only up to approved levels of cash can be held on the premises.
- 4.38 To keep a record of every transfer of money between employees of the authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- 4.39 To recommend to the Section 151 Officer all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- 4.40 To obtain the approval of the Section 151 Officer when writing off debts in excess of the approved limit, and the approval of the Cabinet where required.
- 4.41 To notify the Section 151 Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Section 151 Officer and not later than 30 April.

Ordering and paying for work, goods and services

Why is this important?

- 4.42 Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The authority's procedures should help to ensure that Services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the authority's Contract Procedural Rules and the Capital Programme and Project Management Guidance, in respect of competitive tenders, quotations and contracts.

General

- 4.43 Every officer and member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct.
- 4.44 Official orders must be in a form approved by the Section 151 Officer. Official orders must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Section 151 Officer.

- 4.45 Each order must conform to any guidelines approved by full Council on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Section 151 Officer.
- 4.46 Apart from petty cash, and other payments from advance accounts, the normal method of payment from the authority shall be by cheque or other instrument or approved method, drawn on the authority's bank account by the Section 151 Officer.
- 4.47 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

Key controls

- 4.48 The key controls for ordering and paying for work, goods and services are:
- (a) all goods and services are ordered only by appropriate persons and are correctly recorded
 - (b) all goods and services shall be ordered in accordance with the authority's Capital Programme and Project Management Guidelines for competitive tenders, quotations and contracts unless they are purchased from sources within the authority
 - (c) goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
 - (d) payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards
 - (e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
 - (f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
 - (g) all expenditure, including VAT, is accurately recorded against the relevant budget and any exceptions are corrected
 - (h) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically, in accordance with the Council's E-Mail and Internet Policy.

Responsibilities of the Section 151 Officer

- 4.49 To ensure that all the authority's financial systems and procedures are sound and properly administered.
- 4.50 To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- To approve the form of official orders and associated terms and conditions.
- 4.51 To make payments from the authority's funds on the Corporate Director or Service Head's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- 4.52 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 4.53 To make payments to contractors on the certificate of the appropriate Service Head, which must include details of the value of work, materials held on site, where appropriate, retention money, amounts previously certified and amounts now certified.
- 4.54 To provide advice and encouragement on making payments by the most economical means.

- 4.55 To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

Responsibilities of Corporate Directors and Service Heads

- 4.56 To ensure that official orders are used for all goods and services, other than the exceptions specified in these Financial Regulations and procedures.
- 4.57 To ensure that orders are only used for goods and services provided to the Service or directorate. Individuals must not use official orders to obtain goods or services for their private use.
- 4.58 To ensure that orders are properly authorised by designated officers and to maintain an up-to-date list of such designated staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the authority's approach to procurement. Value for money should always be achieved.
- 4.59 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- 4.60 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
- (a) receipt of goods or services
 - (b) that the invoice has not previously been paid
 - (c) that expenditure has been properly incurred and is within budget provision
 - (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
 - (e) correct accounting treatment of tax
 - (f) that the invoice is correctly coded
 - (g) that discounts have been taken where available
 - (h) that appropriate entries will be made in accounting records.
- 4.61 To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- 4.62 To ensure that the Service maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Section 151 Officer.
- 4.63 To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of these being rendered should be reported to the head of internal audit.
- 4.64 To encourage suppliers of goods and services to receive payment by the most economical means for the authority.

- 4.65 To ensure that the Service obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, which are in line with best value principles and contained in the authority's Contract Procedural Rules and the Capital Programme and Project Management Guidance in respect of competitive tenders, quotations and contracts.
- 4.66 To comply with the authority's Contract Procedural Rules and the Capital Programme and Project Management Guidance when putting purchases out to competitive quotation or tender, including:
- (a) authorised officers and the extent of their authority
 - (b) advertisement for tenders
 - (c) procedure for the invitation and selection of tenderers using *Constructionline*, and the creation and maintenance of ad-hoc standard lists of contractors
 - (d) compliance with UK and EC legislation and regulations
 - (e) procedures for the submission, receipt, opening and recording of tenders
 - (f) the financial and technical evaluation of tenderers where necessary
 - (h) procedures for negotiation
 - (i) acceptance of tenders
 - (j) the form of contract documentation
 - (k) cancellation clauses in the event of corruption or bribery
 - (l) contract records.
- 4.67 To ensure that employees are aware of the national code of conduct for local government employees (summarised in the procedures and conditions of employment manual).
- 4.68 To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Section 151 Officer. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- 4.69 To notify the Section 151 Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Section 151 Officer and, in any case, not later than 30 April.
- 4.70 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Section 151 Officer the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- 4.71 To notify the Section 151 Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- 4.72 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

Payments to employees and members

Why is this important?

- 4.73 Staff costs are the largest item of expenditure for most Services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that members' allowances are authorised in accordance with the scheme adopted by full Council.

Key controls

4.74 The key controls for payments to employees and members are:

- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
- starters
 - leavers
 - variations
 - enhancements

and that payments are made on the basis of timesheets or claims

- (b) frequent reconciliation of payroll expenditure against approved budget and bank account
- (c) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.
- (d) that Inland Revenue regulations are complied with.

Responsibilities of the Section 151 Officer

- 4.75 To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees on the due date.
- 4.76 To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- 4.77 To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- 4.78 To make arrangements for paying members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- 4.79 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- 4.80 To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

Responsibilities of Corporate Directors and Service Heads

- 4.81 To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.
- 4.82 To notify the Section 151 Officer of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Section 151 Officer.
- 4.83 To ensure that adequate and effective systems and procedures are operated, so that:
- payments are only authorised to bona fide employees
 - payments are only made where there is a valid entitlement
 - conditions and contracts of employment are correctly applied
 - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.

- 4.84 To send an up-to-date list of the names of officers authorised to sign personnel records to the Head of Personnel Services, together with specimen signatures. The Section 151 Officer should be provided with specimen signatures of officers authorised to sign timesheets and claims.
- 4.85 To ensure that payroll transactions are processed only through the payroll system. Corporate Directors and Service Heads should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Section 151 Officer.
- 4.86 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and the Section 151 Officer informed where appropriate.
- 4.87 To ensure that the Section 151 Officer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- 4.88 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

Responsibilities of council members

- 4.89 To submit claims for members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

TAXATION

Why is this important?

- 4.90 Like all organisations, the authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

Key controls

- 4.91 The key controls for taxation are:
- (a) budget managers are provided with relevant information and kept up to date on tax issues
 - (b) budget managers are instructed on required record keeping
 - (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
 - (d) records are maintained in accordance with instructions
 - (e) returns are made to the appropriate authorities within the stipulated timescale.

Responsibilities of the Section 151 Officer

- 4.92 To complete all Inland Revenue returns regarding PAYE.
- 4.93 To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.
- 4.94 To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.

- 4.95 To maintain up-to-date guidance for authority employees on taxation issues in the VAT manual. (VAT Manual to be reviewed and developed further if necessary)

Responsibilities of Corporate Directors and Service Heads

- 4.96 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations.
- 4.97 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- 4.98 To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- 4.99 To follow the guidance on taxation issued by the Section 151 Officer in the authority's VAT manual.

TRADING ACCOUNTS AND BUSINESS UNITS

Why is this important?

- 4.100 Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations in the BVPP.

Responsibilities of the Section 151 Officer

- 4.101 To advise on the establishment and operation of trading accounts and business units.

Responsibilities of Corporate Directors and Service Heads

- 4.102 To consult with the Section 151 Officer where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the authority. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- 4.103 To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.
- 4.104 To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.
- 4.105 To ensure that each business unit prepares an annual business plan.

E - External Arrangements

PARTNERSHIPS

Why is this important?

- 5.01 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 5.02 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

General

- 5.03 The main reasons for entering into a partnership are:
- (a) the desire to find new ways to share risk
 - (b) the ability to access new resources
 - (c) to provide new and better ways of delivering services
 - (d) to forge new relationships.
- 5.04 A partner is defined as either:
- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
 - (b) a body whose nature or status give it a right or obligation to support the project.
- 5.05 Partners participate in projects by:
- (a) acting as a project deliverer or sponsor, solely or in concert with others
 - (b) acting as a project funder or part funder
 - (c) being the beneficiary group of the activity undertaken in a project.
- 5.06 Partners have common responsibilities:
- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
 - (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
 - (c) be open about any conflict of interests that might arise
 - (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
 - (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
 - (f) to act wherever possible as ambassadors for the project.

Key controls

- 5.07 The key controls for authority partners are:
- (a) if appropriate, to be aware of their responsibilities under the authority's financial regulations and Contract Procedural Rules
 - (b) to ensure that risk management processes are in place to identify and assess all known risks
 - (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
 - (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
 - (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

Responsibilities of the Section 151 Officer

- 5.08 To advise on effective controls that will ensure that resources are not wasted.
- 5.09 To advise on the key elements of funding a project. They include:
- (a) a scheme appraisal for financial viability in both the current and future years
 - (b) risk appraisal and management
 - (c) resourcing, including taxation issues
 - (d) audit, security and control requirements
 - (e) carry-forward arrangements.
- 5.10 To ensure that the accounting arrangements are satisfactory.

Responsibilities of Corporate Directors and Service Heads

- 5.11 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Section 151 Officer.
- 5.12 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Section 151 Officer.
- 5.13 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.
- 5.14 To ensure that all agreements and arrangements are properly documented.
- 5.15 To provide appropriate information to the Section 151 Officer to enable a note to be entered into the authority's statement of accounts concerning material items.

EXTERNAL FUNDING

Why is this important?

- 5.16 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the single regeneration budget provide additional resources to enable the authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

Key controls

- 5.17 The key controls for external funding are:
- (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
 - (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by full Council
 - (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

Responsibilities of the Section 151 Officer

- 5.18 To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.
- 5.19 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- 5.20 To ensure that audit requirements are met.

Responsibilities of Corporate Directors and Service Heads

- 5.21 To ensure that all claims for funds are made by the due date.
- 5.22 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

WORK FOR THIRD PARTIES (THIS SECTION TO BE CONSIDERED FURTHER)

Why is this important?

- 5.23 Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work are minimised and that such work is intra vires.

Key controls

- 5.24 The key controls for working with third parties are:

- (a) to ensure that proposals are costed properly in accordance with guidance provided by the Section 151 Officer
- (b) to ensure that contracts are drawn up using guidance provided by the Section 151 Officer and that the formal approvals process is adhered to
- (c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibilities of Section 151 Officer

- 5.25 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibilities of Corporate Directors and Service Heads

- 5.26 To ensure that the approval of the Cabinet is obtained before any negotiations are concluded to work for third parties.
- 5.27 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Section 151 Officer.
- 5.28 To ensure that appropriate insurance arrangements are made.
- 5.29 To ensure that the authority is not put at risk from any bad debts.
- 5.30 To ensure that no contract is subsidised by the authority.
- 5.31 To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 5.32 To ensure that the Service has the appropriate expertise to undertake the contract.
- 5.33 To ensure that such contracts do not impact adversely upon the services provided for the authority.
- 5.34 To ensure that all contracts are properly documented.
- 5.35 To provide appropriate information to the Section 151 Officer to enable a note to be entered into the statement of accounts.

(4) The Definition Of Capital Expenditure - Refer To Capital Programme

Recognition

Expenditure on the acquisition, creation or enhancement of fixed assets should be capitalised on an accruals basis. Expenditure on the acquisition of a tangible asset, or expenditure which adds to, and not merely maintains, the value of an existing asset, should be capitalised and be classified as a fixed asset, provided that the fixed asset yields benefits to the authority and the services it provides for a period of more than one year.

The Statutory Definition of “Expenditure for Capital Purposes”

The definition of expenditure for capital purposes is set out in section 40 of the 1989 Act, supplemented by regulations 2 to 8A of the 1997 Regulations:

The acquisition, reclamation, enhancement or laying out of land.
The acquisition, construction, preparation, enhancement or replacement of roads, buildings and other structures.
The acquisition, installation or replacement of movable or immovable plant, machinery and apparatus and vehicles and vessels.
The making of advances, grants or other financial assistance to any person towards expenditure incurred or to be incurred by them on the three items mentioned above or on the acquisition of investments.
The acquisition of share capital or loan capital in any body corporate.
Expenditure incurred in the issue of a loan instrument in respect of which not all repayments to be made by the authority are due within one year of issue.
Works intended to increase substantially the thermal insulation of a building or the extent to which it can be used by people with a disability or the elderly or to reduce substantially the risk to persons in case of a fire (and financial assistance to others for expenditure for these purposes).
Financial assistance towards expenditure incurred by another person on the carrying out of works which are mentioned in the item immediately above or which are intended to increase substantially the extent to which a building (or part of it) can be used for any purpose.
Repayments of Government or European Union grants received towards expenditure for capital purposes.
Interest included in the amount of an instalment of any disposal cost consequent upon a change of landlord under Part IV of the Housing Act 1988.
Expenditure incurred on the acquisition or preparation of a computer program (including acquisition of rights to use a program) for the use for a period of at least one year (including the right to use such a program).
Expenditure incurred under a private finance transaction.

De Minimis Levels

The Council applies a £10,000 de minimis level to the capitalisation of expenditure on schemes. Below this level, any expenditure will be treated as revenue expenditure, unless (and with the agreement of the Section 151 Officer):

- the expenditure relates to a significant item of equipment, plant etc, that has an estimated useful life of greater than one year.
- where the Council allocates a global budget of £10,000 or more for capital related items of expenditure, all such items will be capitalised even if individual allocations are less than £10K.

(5) Document Retention Schedule

Prime records should be retained for a period as determined by the Authority's External Auditor, Customs and Excise and the Inland Revenue.

The Periods currently laid down for their retention are as follows:

Payroll	6 years
Creditor records	6 years
Order books	3 years
Daily cash sheets	6 years
Receipt books	3 years
Personnel files	3 years

These periods have been agreed with the Authority's External Auditors, who may wish to inspect any of these records at any time within the specified limits.

(6) Bibliography

Asset Registers: A Practical Guide for Public Services CIPFA (1997)

Best Value Accounting – Code of Practice 2001 CIPFA (2001)

Building Effective Partnerships: Practical Guidance for Public Services on Working in Partnership CIPFA (1997)

Code of Practice for Internal Audit in Local Government in the United Kingdom CIPFA (2000)

Code of Practice on Local Authority Accounting in the United Kingdom 2000: A Statement of Recommended Practice CIPFA/LASAAC (2000)

Competing Demands – Competition in the Public Services CIPFA (1997)

Guidance for Internal Auditors Auditing Practices Board (1990)

People + Pounds + Property = Services. A Guide to the Use of Capital Accounting to Improve Asset Management and Service Performance CIPFA (1998)

Treasury Management in Local Authorities: Code of Practice and Guide for Chief Finance Officers CIPFA (1996)

SECTION 7

Contract Procedure Rules

1 Compliance with Contract Procedure Rules

- 1.1 In these contract procedure rules, the expressions, 'the Council' and 'Responsible Spending Officer'¹ shall be deemed to include reference to Members, Directors, Service Heads or otherwise authorised officer, acting in accordance with delegated authority on behalf of the Council.
- 1.2 Every contract entered into by the Council, or on behalf of the Council, shall be entered into pursuant to or in connection with the Council's functions and shall comply with:
- (a) all relevant statutory provisions²;
 - (b) the relevant European procurement rules (the Regulations)³;
 - (c) the Council's Constitution including these contract procedure rules, financial regulations and scheme of delegation; and
 - (d) the Council's strategic objectives, procurement strategy and policies.
- 1.3 The highest standards of probity are required of all officers and Members involved in the procurement, award and management of Council contracts. As a general rule Members and officers should refuse offers of gifts or hospitality from any person, firm or organisation having or seeking to establish dealings with the Council.⁴
- 1.4 Failure to comply with these procedure rules and the associated financial regulations may result in disciplinary action against the Council officer or Member concerned.

2 Procurement Outside the Scope of these Contract Procedure Rules

- 2.1 There shall be no requirement under the provisions of these procedure rules for competitive tenders to be invited if in the opinion of the Corporate Director any of the following apply:
- (a) the purchase of proprietary or patented goods or materials or services are obtainable only from one firm, are sold only at a fixed price and no reasonably satisfactory alternative is available;
 - (b) the works, supplies or services to be executed are of a specialised nature carried out by only one firm and for which no reasonably satisfactory alternative is available;
 - (c) the purchase of goods or materials, or the execution of works or supply of services for which there would be no genuine competition;

¹ The Responsible Spending Officer is a Council officer with appropriate delegated authority to act on the Council's behalf in making spending decisions and managing procurement - § 4 of these Contract Procedure Rules refers.

² Any actions taken by the Council must be within its relevant powers as any acts outside of statutory powers may be considered ultra vires. The certification requirements of the Local Government (Contracts) Act 1997 may apply for longer-term contracts of 5 years or over and the Council may be required to provide a certificate to a supplier pursuant to this Act

³ Guidance on the general principles of EU law and compliance with EU directives is provided in the document Public Contracts Regulations – Implementing the European Public Procurement Directives. Copy available from Internal Audit or on the Intranet (*Services/Financial Services/Financial Services Documents*)

⁴ Reference should be made to the Members or Employees Code of Conduct in this respect.

- (d) the works or services to be executed or the goods or materials to be supplied consist of repairs to, or the supply of, parts of existing proprietary machinery or plant;
- 2.2 The Responsible Spending Officer must formally consult the Head of Legal Services and the Procurement Officer where the purchase is to be made using standing arrangements with another local authority, Government department, statutory undertaker or public service purchasing consortium.
- 2.3 The following types of contract are also exempt from the requirements of these contract procedure rules:
- (a) individual agency contracts for the provision of temporary staff⁵;
 - (b) employment contracts⁶; and
 - (c) contracts relating solely to disposal or acquisition of an interest in land⁷.

3 Exceptions to Contract Procedure Rules

- 3.1 Corporate Directors have the power to waive these contract procedure rules in specific instances. Exceptions and the reasons for them must be recorded⁸ and passed to the Procurement Officer who shall maintain a register of all such exemptions.
- 3.2 Every exception made on behalf of the Council shall be identified in Corporate Financial Monitoring Reports specifying the reason(s) that justified the exception being made, including any as a result of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services.
- 3.3 The following matters may be considered by Corporate Directors as an exception to these Contract Procedure Rules, any other issues must be referred to the Procurement Officer in the first instance:
- (a) the works or services to be executed or the goods or materials to be supplied constitute an extension of an existing contract;
 - (b) the contract is for the execution of works or services or the supply of goods or materials authorised as being required urgently⁹;
 - (c) tenders or quotations have been invited on behalf of any consortium, collaboration or similar body, of which the Council is a member, in accordance with any method adopted by such a body. Provided that where tenders or quotations are so invited by an officer of the Council, the delivery opening and acceptance of tenders shall comply with the provisions of these procedure rules, or any overriding national or European Union legislation.

⁵ Where employment agencies are used to provide temporary staff, arrangements will be subject to procurement, but agency staff will be employed on the agency's terms and conditions.

⁶ Employment contracts between the Council and its employees are not subject to these contract procedure rules but Part 4, Section 8 'Officer Employment Procedure Rules' of the Constitution applies.

⁷ Contracts relating solely to an interest in land will not be subject to the tendering procedure requirements of these contract procedure rules but other Financial Regulations (yet to be developed) will apply. Straightforward acquisitions or disposals of land are exempt from EC public procurement directives, although legal advice should be sought on the applicability of the Regulations in certain circumstances; for example where the Council is developing land and its level of involvement extends beyond the disposal of land.

⁸ A form is currently being designed for this purpose – Contact the Procurement officer for more information.

⁹ A record must be made of the reason(s) justifying the urgent procurement of the required works, goods or services.

4 Procurement Plan¹⁰

- 4.1 For each financial year, the Council shall agree a Procurement Plan setting out details of its current contracts and contracts to be procured for the forthcoming three financial years so that appropriate resources can be identified.
- 4.2 At the commencement of each financial year, the Procurement Officer shall on behalf of the Council, publish a Prior Information Notice (PIN)¹¹ in the Official Journal of the European Union (OJEU) listing the supplies and services contracts that the Council expects to be procure in that financial year. In relation to contracts for works, the Council shall publish a PIN in the OJEU when works are approved.

5 Delegated Authority

- 5.1 Any procurement¹² carried out on behalf of the Council may only be undertaken by officers with the appropriate delegated authority as set out in the Constitution. Officers with delegated authority, referred to as Responsible Spending Officers (RSO's), are solely responsible for managing and making spending decisions on the procurement. The RSO must be clearly identified in the Scheme Authorisation Checklist¹³.
- 5.2 RSO's may only delegate to other officers who have the skills and knowledge appropriate to the task and these officers must be informed by the RSO of the extent of any delegated authority and any applicable financial thresholds relevant to the procurement.
- 5.3 Within approved budgets, and in accordance with the Procurement Plan where applicable, delegated officers may authorise members of their staff to place orders against Framework Agreements (Para 5.3 & 5.4 refers) which have been entered into by the Authority.
- 5.4 Contract awards over £50,000 constitute Key Decisions¹⁴ and as such shall be included in the Forward Plan¹⁵. If the award has not been included in the Forward Plan, a Key Decision Notice, approved by the relevant Corporate Director, must be published giving a minimum of five working days notice of when the decision will be taken.¹⁶
- 5.5 The decision to award the contract is delegated to the Chief Executive except where the amount of the tender proposed for acceptance exceeds the estimated budget provision. In these circumstances, Cabinet will make the decision.
- 5.6 Contract awards involving any potential transfer of Council employees to a Supplier shall be referred to Cabinet for decision.

¹⁰ A schedule identifying high value procurements so that appropriate resources can be identified. It also provides a basis for PIN's and other information provided to suppliers to give advance notice of bidding opportunities. The Corporate procurement plan shall set out details of all works, supplies and services that the Council expects to tender for over the next three financial years. The plan shall be regularly updated and held on the Council's website.

¹¹ Publication of a PIN in OJEU enables the tender period for the open and restricted tendering procedures in relation to services and works contracts to be shortened. It is not permitted to reduce the tendering period for supply tenders even if a notice has been published.

¹² Procurement means the process of acquiring goods, works and services from suppliers, for example through purchase orders, tendering procedure or via a framework agreement.

¹³ The Scheme Authorisation Checklist provides practical guidance, in the form of a checklist, on the framework for managing capital schemes. It can be found within the Financial Services section of the Intranet

¹⁴ A Key Decision is any decision in relation to an executive function that is likely to result in revenue or capital expenditure or savings exceeding £50,000.

¹⁵ The Forward Plan is produced monthly by the leader covering a period of four months and setting out matters which the Leader believes will be subject of a Key Decision (See 'Access to Information Procedure Rules' within the Constitution)

¹⁶ For further information on the Key Decision process see Section 18 on 'Awarding Contracts'.

6 Pre-Procurement Procedure

- 6.1 Before commencing procurement the RSO leading the procurement will identify the need and fully assess any options for meeting those needs.¹⁷
- 6.2 Before undertaking procurement the RSO shall:
- (a) consider all other means of satisfying the need (including recycling and reuse where appropriate);
 - (b) establish a business case for the procurement; and
 - (c) consider the most appropriate procurement method, for example, framework agreement, joint procurement (or collaboration), partnering arrangements, e-Procurement solutions (i.e. BACS payments and the use of procurement cards) etc.

Framework Agreements

- 6.3 Framework agreements are flexible arrangements that enable the Council to procure goods, works or services for low risk, low value requirements. Initially, tendered in accordance with these contract procedure rules, framework agreements allow the Council to make specific purchases (call-offs) throughout the term of the agreement, without the need to conduct further tendering exercises.
- 6.4 Where the Council has entered into a Framework Agreement through procurement or is able to call off from existing Framework Agreements procured by central government agencies¹⁸, then the Council may benefit from using those contracts without entering into a separate procurement.

Joint Procurement

- 6.5 The Council may enter into joint procurement arrangements with other local authorities and local partners (e.g. in purchasing consortia or joint procurement projects) in order to save on procurement resources (i.e. time and cost of involved in tendering individual contracts) and increase purchasing power.
- 6.6 Cabinet shall approve any joint procurement arrangements with other local Authorities or public bodies, including membership or use of Purchasing Consortia, prior to the commencement of any procurement on behalf of the Council.

Partnering¹⁹

- 6.7 Partnering arrangements are a contracting activity promoted under the Governments '*Rethinking Construction*' Agenda (the Egan Report)²⁰ in which the Council and the preferred supplier work in an open and joint relationship to achieve common objectives, with defined performance targets.
- 6.8 Partnering might be considered for high risk, high value or complex procurements with the principal benefit that relationships with the supplier are strengthened and risks and benefits are shared in a previously agreed and quantifiable manner.

¹⁷ Consideration should be given to Council's Procurement Strategy and the Scheme Authorisation Checklist and advice sought from Legal Services and Financial Services (Procurement Officer or Internal Audit) as appropriate

¹⁸ The Council may benefit from framework arrangements procured on a regional or national basis including the GCAT, SCAT and LCAT arrangements

¹⁹ For more detailed guidance please refer to the *Procurement through Partnering Guidelines*

²⁰ Report commissioned by Central Government in 1998 aimed at achieving radical improvements in the construction industry

e-Procurement

- 6.9 e-Procurement advancements are integral to the Council's approach to Implementing Electronic Government. A number of e-procurement solutions are available including the use of procurement cards, receiving tenders and quotations electronically, ordering goods and services securely over the internet from electronic catalogues and the conduct of electronic auctions.
- 6.10 Research on the use of these e-procurement solutions is ongoing and the Council is currently conducting pilot schemes on the use of procurement cards and e-tendering with a view to these being used to improve information on which to base decisions, increase efficiency and reduce paperwork.

7 Estimating the Contract Value

- 7.1 For consistency, contract values shall be calculated in accordance with the Regulations²¹ even when the Regulations are not applicable.
- 7.2 The Council shall make the best use of its purchasing power by aggregating purchases wherever possible. Supplies, services or works shall not be split in an attempt to avoid the applicability of these contract procedure rules or the Regulations²².

8 Competition Requirements for procurement and disposal

Low Value Procurement

- 8.1 Officers with appropriate delegated authority shall, on behalf of the Council, procure works, goods and services with an estimated value of below £10,000. Service Heads are responsible for ensuring that value for money is achieved.
- 8.2 The official order for the procurement shall specify the services, supplies or works to be provided and set out the price and terms of payments. Any appropriate Framework Agreements in place shall be used regardless of value, provided that the requirements in relation to delegated authority are met.

Intermediate Value Procurement

- 8.3 For procurements valued above £10,000 but at or below £50,000 at least three written competitive quotations shall be invited before an official order is issued specifying the supplies, services or works to be provided. If it is not possible to obtain three quotations a record shall be kept of the reason(s) for this.
- 8.4 Quotations will only be considered if submitted in a plain sealed package addressed to the RSO concerned, bearing the word "Quotation" and the title of the works, goods or services to be supplied. The envelopes shall not bear the senders name or any other identifying marks, and only quotations that comply with this procedure rule shall be considered.
- 8.5 All quotations received shall be opened at the same time in the presence of at least two officers designated by the RSO with at least one of these officers being independent of the quotation procurement process.
- 8.6 The RSO concerned shall maintain suitable records indicating the quotations received, the action taken relating to the invitation of suppliers and the receiving and evaluation of quotations and the award to the successful supplier. Officers present at the opening of the quotations shall sign the record of quotations received.

²¹ The Regulations set out how contract values are estimated including calculations for aggregated contracts.

²² The Regulations contain specific rules about estimating the value of mixed contracts e.g. services and supplies or Part A and Part B Services.

- 8.7 Where the risk in a specific procurement is perceived to be high and/or may involve a transfer of staff, the procurement shall be treated as a High Value Procurement.

High Value Procurements

- 8.8 For procurements valued at above £50,000 (subject to exemptions under § 2 of these procedure rules, and to any overriding requirements of the Regulations) a competitive tendering procedure appropriate to the particular procurement (i.e. open, restricted or negotiated – see § 8 below) shall be conducted in accordance with these contract procedure rules.

- 8.9 For all high value procurements, the RSO responsible shall in a manner commensurate with the complexity and value of the procurement²³:

- (a) arrange for a full appraisal of the project and the estimated cost implications to be carried out;
- (b) determine the most advantageous method of procurement and establish a framework for carrying out the project;
- (c) take into account the requirements from any Best Value²⁴ review;
- (d) consult with the Procurement Officer to ensure that a procurement arrangement is not already in place;
- (e) define the objectives of the procurement and indicate how this links to the strategic objectives of the Council and/or Service concerned;
- (f) assess the risks associated with the procurement and how to manage them;
- (g) consult users as appropriate about the proposed procurement method, contract standards and also performance and user satisfaction monitoring; and
- (h) record the delegated officer responsible for the procurement (RSO), the project timetable and expected length of the contract and the tendering procedure to be used.

- 8.10 The RSO shall also confirm that:

- (a) there is Member or delegated approval for the expenditure;
- (b) there is Cabinet approval for significant new proposals in accordance with Financial Regulations; and
- (c) prior information notices, if required in accordance with EC Regulations, have been sent.

Procurements Subject to the Regulations

- 8.11 Where the estimated value of procurement exceeds the current EU threshold then the contract shall be tendered in accordance with the Regulations²⁵.

- 8.12 Under the Regulations, the contract may be tendered under the open, restricted or, in exceptional circumstances as set out in the Regulations, the negotiated procedure. A contract notice in the prescribed form shall be published in the Official Journal of the European Union (OJEU) in order to invite tenders for or expressions of interest for Part A services

²³ Reference to the Scheme Authorisation Checklist (held within the Finance Documents on the Intranet) will provide a useful aide-memoir for the approval and management of capital schemes

²⁴ The duty on Council's to secure continuous improvement in the way, in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

²⁵ For the current EU thresholds (valid to 31 Dec 2005) see Appendix A.

contracts and supplies and works contracts subject to the rules²⁶. Contracts for Part B Services do not need to be advertised in OJEU²⁷. The rules relating to technical specifications and the publication of contract award notices shall, however, be observed for all contracts as shall the EC Treaty²⁸ and the general principles of EC law including non-discrimination, equal treatment, proportionality and transparency.

- 8.13 The Council shall comply with the minimum timescales for receipt of expressions of interest and the receipt of tenders as set out in the Regulations²⁹. Where the Council has published a Prior Information Notice (PIN) announcing its forthcoming contracts for the year ahead, reduced timescales may be used, if appropriate³⁰.
- 8.14 Where the Regulations apply, the RSO shall consult the guidance 'The Public Contracts Regulations – Implementing the EU's Public Procurement Directives'³¹ and formally consult with the Procurement Officer to determine the method of conducting the procurement.
- 8.15 Best Value and partnering arrangements are subject to all UK and EC procurement legislation and must follow these contract procedure rules. If in doubt about the application of the EC Regulations, the RSO must seek the formal advice of the Procurement Officer in writing.

Disposal of Assets

- 8.16 Assets for disposal must be sent to public auction except where better value for money is likely to be obtained by inviting quotations and tenders. The method of disposal of surplus or obsolete stocks/stores or assets other than land, and Information Technology equipment, must be formally agreed with the Head of Financial Services.
- 8.17 IT equipment identified as obsolete or surplus to requirements must be disposed of in accordance with the Council's Information Security Policy.³²

9 Tendering Procedures

Open Procedure

- 9.1 Where publication in OJEU is not required, at least ten days public notice shall be given in one or more of the local newspapers, on the Council's website and in any appropriate national press and/or trade journals in order to target the appropriate market for the particular contract. The advertisement shall contain details of the nature and purpose of the procurement and specify a date within which interested parties may express an interest in tendering for the contract.
- 9.2 After expiry of the specified date for the receipt of expressions of interest, the Council shall send all suppliers expressing an interest an Invitation to Tender (ITT), specifying a date and time for the receipt of tenders.
- 9.3 Where advertisement of the procurement is required in OJEU, the Council shall not publish an advertisement in the UK before publication of the OJEU Notice. Local advertisements shall not contain any further details than those included in the OJEU Notice.

²⁶ Part A – Priority Services Contracts are subject to the full scope of the Regulations and shall be advertised in OJEU.

²⁷ Part B Services are not subject to the full Regulations. Please refer to the guide 'The Public Contracts Regulations – Implementing the EU's Public Procurement Directives' or contact the Procurement Officer.

²⁸ Treaty which established the European Community

²⁹ See Appendix A for the EU timescales from despatch to publication in OJEU.

³⁰ A Prior Information Notice (PIN) shall be published in OJEU at the start of each financial year setting out the forthcoming contracts for the year ahead.

³¹ See Financial Services Documents on the Intranet.

³² The Council's Information Security Policy can be located within the Information Services section of the Intranet.

Restricted Procedure

- 9.4 Suppliers selected by the Council for the supply of goods, works or services are invited to tender. Such suppliers will have been previously assessed as to their:
- (a) eligibility;
 - (b) economic and financial standing; and
 - (c) technical capacity³³.
- 9.5 In respect of procurements expected to exceed £50,000 this will be achieved by selecting firms from:
- (a) pre-qualified suppliers on Constructionline³⁴;
 - (b) an approved list of suppliers maintained by the Council and compiled following responses to a public notice in the manner described in the open procedure except that notice shall state that the restricted procedure is being used; or
 - (c) a shortlist of suppliers assessed from expressions of interest for a specific contract submitted in response to a public advertisement in the manner described in (b) above.
- 9.6 If the Regulations do not apply a minimum of three suppliers will be invited to tender, selected from the Approved List or Constructionline³⁵. Procurements subject to the Regulations shall comply with the appropriate Regulation and in these cases a minimum of five suppliers shall be invited to tender from those expressing an interest following the publication of the OJEU Notice.
- 9.7 Any procurement subject to the Regulations shall comply with the appropriate Regulation³⁶.

Negotiated Procedure

- 9.8 The Council negotiates with a number of bidders to secure a contract that achieves the most economically advantageous offer for the Council, the suppliers being selected on the basis of published pre-qualification criteria.
- 9.9 If the publication of a notice in the OJEU is not required, the advertising requirements are the same as in the restricted procedure, except where the procurement falls within one of the exemption provisions of the Regulations³⁷. Any notice shall state that a negotiated procedure is being used.
- 9.10 A minimum of three suppliers should be invited to negotiate following publication of a notice.

³³ Technical capacity may include the Supplier's quality management systems including human resources, health and safety and environmental management systems where relevant to the performance of the contract

³⁴ Constructionline is the National Database of 'qualified' firms assessed for their technical and financial capacity. Contact the Procurement Officer for more information.

³⁵ Firms selected for ITT shall be on the basis of random selection to test the market and previous tendering history. For more information please refer to the Guide to Quotations and Tenders for Council Work, Services and Supplies.

³⁶ The Regulations detail the qualification criteria and the extent to which the Council may seek supporting evidence from suppliers.

³⁷ Please refer to the guide 'The Public Contracts Regulations – Implementing the EU's Public Procurement Directives'.

- 9.11 At least two officers, one of who shall be the Corporate Director/Service Head responsible for the procurement or their delegate shall be present at all times during the negotiations. Negotiations carried out with potential suppliers shall be fair and transparent and all treated equally. Proper records of the negotiations shall be maintained and signed as such by all participants and the outcome of the negotiated procedure approved by Cabinet.

Serial Tenders

- 9.12 The Council may enter into a serial contract where the works, goods or services form part of a programme of work where the scope may change over time and/or the budgetary provision has not been allocated for the whole period of the contract.
- 9.13 The terms will be negotiated with the supplier on the basis of the rates and prices contained in an initial procurement awarded competitively following an invitation to tender in accordance with open or restricted tendering procedures.
- 9.14 The serial contract shall be tendered in accordance with EC Regulations where, over the total period of the serial contract, the estimated value of the procurement exceeds the relevant EU threshold.
- 9.15 The Council's intention to enter into a serial contract must be clearly stated at the Expression of Interest and the Invitation to Tender stage of the tendering process.
- 9.16 The award of the serial contract shall be in accordance with these Contract Procedure Rules (See § 17 below) and the decision to allow the contractor to proceed onto the next phase of a serial contract will be subject to the following conditions being met:
- (a) completion of a Post Contract Performance Appraisal Form³⁸ in relation to the previous phase of the serial contract;
 - (b) budgetary provision in relation to the next phase of the serial contract is in place;
 - (c) the rates and prices for the next phase of the contract have been negotiated on the basis of the original rates when the contract was awarded; and
 - (d) the RSO and Procurement Officer have agreed to the continuation of the contract to the next phase.
- 9.17 The Procurement Officer shall maintain a record of the serial contract through completion of the 'Record of Decision Taken to Release Phase of Serial Contract'³⁹. This document must be completed in full before permission can be given to the supplier to proceed to the next phase of the contract.

Single Tenders

- 9.18 The Council may invite a tender from a single supplier selected by the Council, or through negotiation with a supplier already engaged by the Council, where this is considered to be in its best interests and where and of the following applies:
- (a) tendering procedures as set out above have resulted in no acceptable tenders being received;
 - (b) the work is so specialised that the chosen firm is the only one able to satisfy the criteria for selection; or
 - (c) the nature of the procurement is such that a precise specification cannot be drawn up.

³⁸ This form is an Appendix to the 'Guide to Contract Completion and Review' available within the Financial Services section of the Intranet.

³⁹ Form available from the Procurement Officer

10 Pre-Tender Market Research and Consultation

- 10.1 Prior to the issue of the ITT in relation to the procurement the RSO may consult potential suppliers in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters provided this does not prejudice any potential supplier.
- 10.2 The RSO must not seek or accept technical advice on the preparation of the ITT from any supplier who may have a commercial interest in the procurement, if this may prejudice the equal treatment of all potential suppliers or distort competition.⁴⁰

11 Standards and Award Criteria⁴¹

- 11.1 The RSO must ascertain what are the relevant British (or equivalent), European or international standards that apply to the procurement and must include those standards that describe the required quality.
- 11.2 The RSO must define and document the Award Criteria appropriate to the procurement, before tenders are sought and the criteria must be designed to secure an outcome that provides the best value for money for the Council. The basic criteria shall be:
- (a) lowest price where payment is to be made by the Council;
 - (b) highest price if payment is to be received; or
 - (c) most economically advantageous offer (where considerations other than purchase price also apply).
- 11.3 Where the most economically advantageous offer is adopted it must be further defined by reference to criteria relevant to the procurement. This may include price, service, quality, running costs, whole life cycle costs, previous experience, delivery date, cost effectiveness, environmental considerations, aesthetic and functional characteristics, safety, after-sales service, technical assistance, partnering and any other relevant matters.

12 The Invitation to Tender (ITT)

- 12.1 The Invitation to Tender (ITT) shall state that no tender will be considered unless it is received by the date and time stipulated in the ITT. The Head of Administration Services will promptly return tenders received in contravention of this clause to the supplier submitting the tender.
- 12.2 All suppliers invited to tender shall be notified that no tender will be considered unless contained in a plain sealed envelope addressed to the Chief Executive bearing the word 'Tender' followed by a description of the procurement to which the tender relates⁴². These envelopes must not bear any distinguishing mark intended to indicate the identity of the sender.
- 12.3 The ITT (or Invitation to Quote where this applies) must state that the Council is not bound to accept any submitted tender (or quotation).
- 12.4 The ITT shall include details of the Council's requirements for the particular procurement including:
- (a) a description of the services, supplies or works being procured;

⁴⁰ For further advice contact the Procurement Officer.

⁴¹ This is the criteria by which the successful tender (or quotation) is to be selected

⁴² Use should be made of orange labels available from Administration Services to reduce the risk of tenders being opened in error and to ensure that tenders are taken to Administration Services for safekeeping.

- (b) the procurement timetable including the tender return date and time, which shall allow a reasonable period for the applicants to prepare their tenders;
- (c) a specification and instructions on whether any variants (or alternatives⁴³) are permissible;
- (d) the Council's terms and conditions of contract⁴⁴;
- (e) the tender evaluation criteria including any weightings, as considered appropriate, where considerations other than price apply⁴⁵;
- (f) the pricing mechanism and instructions for completion including the method by which arithmetical errors discovered in submitted tenders are to be dealt with. In particular, whether the overall price prevails over the rates in the tender or vice versa;
- (g) form and content of method statements to be provided;
- (h) whether the Council is of the view that TUPE may apply⁴⁶; and
- (i) any further information which will inform or assist potential suppliers in preparing tenders.

12.5 All potential suppliers invited to tender (or quote) shall be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be provided to all potential suppliers on the same basis.

13 Nominated Sub-contractors and Suppliers

13.1 If a sub-contractor or supplier is to be nominated by the Council to the main contractor or supplier, quotations and tenders must be obtained in accordance with these contract procedure rules.⁴⁷

14 Submission, Receipt and Opening of Tenders

14.1 Suppliers invited to tender must be given sufficient time in which to prepare and submit a proper bid, consistent with the urgency of the procurement, and will normally be four weeks from the date of the invitation to tender.

14.2 All tenders must be returned to the Chief Executive in the manner described at 12.2 above. Tenders received by fax or any other electronic means must be rejected⁴⁸.

14.3 Administration Services must be notified, using a standard 'Notification of Tender Submission' form⁴⁹, as soon as practicable of the details of the procurement, the date and time for return and the number of suppliers invited to tender. The names of the suppliers invited to tender must not be disclosed to staff involved in the receipt, custody and opening of tenders.

⁴³ In these circumstances, it is good practice to request suppliers to also submit a tender which is fully compliant with the Council's specification for evaluation purposes.

⁴⁴ Where standard terms and conditions are to be used these should be reviewed for each procurement being tendered. Contact the Procurement Officer for further guidance and advice.

⁴⁵ See also § 15 and 17

⁴⁶ If it is considered that TUPE may apply the advice of the Head of Legal Services must be sought as to what information to include in the invitation to tender.

⁴⁷ Section 7 relating to Intermediate and High Value Procurements refers.

⁴⁸ An electronic tendering system is being piloted, with a view to this being available in the future. For more information, please contact the Procurement Officer.

⁴⁹ Form available from Administration Services or the Procurement Officer and available on the Procurement page of the Council's Intranet.

- 14.4 The Head of Administration Services shall be responsible for the safekeeping of tenders until the specified date and time for opening, and will ensure that each tender received is date stamped, initialled by the officer receiving the tender and logged upon receipt in the Register of Tenders.
- 14.5 The Head of Administration Services will ensure that all tenders are opened at the same time when the period for their submission has ended. Tenders shall be opened by two officers of the Council, one of whom must be an officer designated by the Head of Administration Services as custodian of the received tenders.
- 14.6 Upon opening a summary of the main terms of the submission received shall be recorded in the permanent Register of Tenders.⁵⁰
- 14.7 The Head of Administration shall notify the RSO that tenders have been opened and arrangements shall be made for the opened tenders to be collected for evaluation.

15 Clarification Procedures and Post Tender Negotiation

- 15.1 Providing clarification of an ITT to potential or successful suppliers, or seeking clarification of a submitted tender is permitted provided that a written record of the details of the clarification is made and retained.
- 15.2 Post-tender negotiations may be conducted with any, or all, suppliers after submission of a tender and before the award of the contract with a view to obtaining adjustments in both price and content provided that the RSO has formally consulted the Head of Legal Services⁵¹.
- 15.3 Negotiations shall be conducted by at least two officers and full details of the negotiations documented and formally agreed by both parties. At all times during the negotiations the Council shall consider and implement the principles of non-discrimination, equal treatment and transparency.
- 15.4 Where post tender negotiations result in a fundamental change to the specification (or terms and conditions of contract) the procurement must not be awarded but re-tendered in accordance with these contract procedure rules.
- 15.5 Where procurement is conducted pursuant to the Regulations through either the open or restricted tendering procedures no post tender negotiations shall be permitted.

16 Tender Evaluation

- 16.1 An evaluation must be made of competitive tenders submitted by those suppliers invited to tender. Tenders subject to the Regulations shall be evaluated in accordance with the relevant Regulation and the Award Criteria set out in the ITT. All other tenders shall be evaluated in accordance with the Award Criteria, which was notified to potential suppliers in the ITT.
- 16.2 All procurements, except where lowest price was predetermined to be the appropriate criteria, shall be awarded on the basis of the offer which represents Best Value for Money to the Council, taking into account the quality aspects as set out in the ITT.
- 16.3 The confidentiality of the submitted bids and the identity of the potential suppliers must be preserved at all times during the period of the evaluation and the RSO shall ensure that a

⁵⁰ This will normally be the submitted price but may include other relevant terms where applicable i.e. submissions received in a partnering procurement.

⁵¹ This will normally involve informing the Head of Legal Services that it is proposed to enter into post-tender negotiation and agree the process to be undertaken i.e. whether negotiation is to be with all potential suppliers.

Tender Evaluation Report Checklist⁵², comparing the amount(s) tendered with the pre-tender estimate is compiled.

- 16.4 For procurements subject to the Regulations or with a value above £50,000 the RSO shall form an Evaluation Team of representatives, as considered appropriate, with responsibility for evaluating submitted tenders.

17 Bonds, Guarantees and Insurance

- 17.1 For high value/high risk procurements, the Evaluation Team shall consider as part of its pre-qualification assessment and evaluation process whether a performance bond and/or parent company guarantee (if applicable) shall be required from the preferred supplier.
- 17.2 The Evaluation Team shall consider the appropriate type (employee liability, public liability, professional indemnity, etc) and level of insurance requirements for each procurement.

18 Awarding Contracts

- 18.1 An RSO with the requisite delegated authority⁵³ shall award contracts to the value of £50,000 (i.e. low or intermediate value procurements) provided that sufficient funds are in place to sustain the procurement.
- 18.2 For procurements subject to the Regulations or with a value above £50,000 (i.e. high value procurement) a standard Acceptance of Tender Form⁵⁴ shall, following evaluation of the submitted tenders, be completed and sent together with the Tender Evaluation Checklist and any other relevant information to the Procurement Officer for comment. The Procurement Officer will contact the RSO in the event of any query.
- 18.3 The Procurement Officer shall ensure that the Regulations and these contract procedure rules have been complied with and forward the completed Acceptance of Tender Form to the Chief Executive who has delegated authority to award contracts with a value in excess of £50,000 on the Council's behalf provided that the amount of the tender proposed for acceptance does not exceed the estimated budget provision. In these circumstances, Cabinet will make the decision.
- 18.4 Arrangements at this stage must ensure that a Key Decision Notice is completed in accordance with Para 5.4 of these Contract Procedure Rules.
- 18.5 The Head of Administration Services shall, on the next available publication date⁵⁵ following the signing of the Acceptance of Tender Form by the Chief Executive, publish a 'Notice of the Decision' giving a period of 5 working days for call in. Following expiration of the call-in period the Head of Administration Services shall notify the RSO that the contract can be formally awarded to the successful supplier.
- 18.6 Where procurement has been tendered pursuant to the Regulations, the Council shall publish a contract award notice in OJEU no later than 48 days after the date of award of the contract⁵⁶.

⁵² Please refer to Appendix C of the Guide to Quotations and Tenders for Council Works , Services and Supplies.

⁵³ As set out in Section 4 of these Contract Procedure Rules.

⁵⁴ A copy of the Acceptance of Tender form can be obtained from Administration Services or the Procurement Officer and on the Procurement section of the Council's Intranet.

⁵⁵ Decisions are published at approximately fortnightly intervals on agreed dates available on the Intranet.

⁵⁶ Contract award notices are not required for Part B Services except where the Council published a contract notice prior to commencement of the procurement.

19 Debriefing

- 19.1 The RSO responsible for the procurement shall provide a debriefing to suppliers submitting unsuccessful tenders upon written request. For consistency this shall be in accordance with the Regulations even where the regulations do not apply⁵⁷.

20 Contract Documents & Terms and Conditions

- 20.1 Contracts shall be entered into on the Council's terms and conditions, which shall be included with each purchase order and ITT.⁵⁸ All contracts shall be held in the custody of the Head of Legal Services or in a manner determined by him/her.
- 20.2 Every contract which exceeds £50,000 in value and contracts of any value involving demolition works shall be in writing in a form approved by the Head of Legal Services, and shall specify:
- (a) the work to be done, or services, goods or materials to be provided including any appropriate technical specification(s); and
 - (b) the price to be paid with a statement of discounts or other deductions, and the time or times within which the contract is to be performed.

Letters of Intent

- 20.3 This provision shall not prevent the Head of Legal Services, in his/her absolute discretion, from issuing, or authorising the issue of, a letter of intent⁵⁹ to the contractor, or approving procedures for giving permission for work to commence prior to the completion of the written contract.

Assignment

- 20.4 In every written contract⁶⁰ for the execution of work or the supply of goods or materials the following clause shall be inserted:

"The contractor shall be prohibited from transferring or assigning directly or indirectly, to any person or persons whatever, any portion of his contract without the written permission of the Council. Sub-letting of any part(s) of the work, except to the extent permitted in writing by the officer concerned, shall be prohibited."

Specifications and Standards

- 20.5 Where contracts are subject to the Regulations, the rules relating to technical specifications shall be followed and any reference to a technical standard, make or type shall be prefaced with the words "or equivalent". This requirement applies to both Part A and Part B Services.
- 20.6 All written contracts shall require that supplies used in their execution shall as a minimum, be in accordance with European and/or British Standards current at the date of the tender, as applicable.

Insurance and Health and Safety

⁵⁷ The Regulations require that an unsuccessful supplier shall within 15 days of written request be informed of the reasons why they were unsuccessful and, if an admissible tender was submitted, the characteristics and relative advantages of the successful tender as well as the name of the supplier awarded the contract.

⁵⁸ Further advice is available from Legal Services and the Procurement Officer

⁵⁹ Letters of intent are commonly used for building and engineering contracts where it is essential that works start by a certain date but the contractual arrangements have not been finalised. Letters of intent are rarely required for services and supplies contracts and should only be used in exceptional circumstances. The advice of the Head of Legal Services should be sought as appropriate.

⁶⁰ Written contract in these contract procedures rules refers to any contract exceeding £50,000.

- 20.7 Every written contract must state that the supplier will indemnify the Council against all losses and claims for injury or damage to any persons or property, which may arise as a consequence of the procurement. The supplier shall throughout the execution of the contract, maintain suitable insurance for which they are liable and shall produce the relevant insurance policies on demand.
- 20.8 In every written contract a clause shall be inserted requiring the supplier to acquaint themselves with the Council's policy on Health & Safety at Work and the relevant codes published for the Council's operations.

Other contractual requirements

- 20.9 Written contracts shall, as considered appropriate, state other contractual obligations including race equality, equal opportunities and sustainability obligations⁶¹. Consideration will also need to be given to statutory requirements relating to data protection and the Freedom of Information Act⁶², as well as operational requirements in relation to accessibility of relevant documentation maintained by the Council and the successful supplier⁶³.
- 20.10 All tender processes and contract awards shall comply with EU Public Procurement Directives and the principles of non-discrimination, equal treatment and transparency and other duties under UK law. A diverse and competitive supply market, including small firms, social enterprises, ethnic minority businesses and voluntary and community sector suppliers shall be encouraged.

Termination of Contract

- 20.11 In every written contract a clause shall be inserted empowering the Council to terminate the contract and to recover from the supplier the amount of any loss resulting from such termination, if the supplier or any person acting on their behalf (whether with or without the knowledge of the supplier) shall have:
- (a) offered, given or agreed to give any persons any gift, inducement or reward in relation to the awarding or execution of any contract with the Council; or
 - (b) shown favour or disfavour to any person in relation to any contract with the Council; or
 - (c) if, in relation to any contract with the Council, the contractor shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or any amendment to them, or shall have given any fee or reward the receipt of which is an offence under sub-section 2 of section 117 of the Local Government Act 1972.
- 20.12 For any contract exceeding £50,000 in value, the Chief Executive shall approve termination of the contract and subsequently report to Cabinet the reason(s) for this action being taken. Contracts of a lesser value may be terminated early by agreement prior to the expiry date or in accordance with the termination provisions set out in the contract. The advice of the Head of Legal Services should be sought as appropriate.

Appointment of Consultants

- 21.1 The engagement of consultant architects, engineers and surveyors or other professional consultants shall be subject to completion of a formal letter, contract of appointment or brief.
- 21.2 Consultants shall be selected, tendered and commissions awarded in accordance with the procedures detailed in these contract procedure rules.

⁶¹ For further advice contact the Head of Legal Services and the Procurement Officer

⁶² For further advice contact the Information Management Officer.

⁶³ This will be particularly relevant where partnering arrangements have been entered into (i.e. open book accounting arrangements).

- 21.3 It shall be a condition of the engagement of the services of any consultant responsible for the supervision of a contract on behalf of the Council that in relation to that contract the consultant shall:
- (a) comply with these procedure rules subject to the modification that the tendering procedure to be followed shall be approved in advance by the Service Head or Corporate Director concerned;
 - (b) at any time during the carrying out of the contract, produce to the Service Head, Director, Head of Financial Services or other designated officer, on request, all the records maintained by him/her in relation to the contract; and
 - (c) on completion of a contract, forward all such records to the Service Head, Director or other designated officer.
- 21.4 Consultants shall not make any decision on whether to award a contract or whom a contract should be awarded to.
- 21.5 Throughout the commission monitoring arrangements must ensure that the due performance of the consultant is in accordance with the levels and standards of service specified in their conditions of appointment.
- 21.6 Arrangements should ensure copyright and title of any works performed by consultants belongs to the Council.
- 22 Records of Contracts**
- 22.1 Service Heads shall maintain his/her own register of contracts entered into by his/her Service of whatever value, and until such time as an electronic Contracts Register of all contracts exceeding £50,000 has been developed⁶⁴.
- 22.2 For every individual contract a Contracts file shall be maintained.
- 23 Statistical Returns**
- 23.1 Each year the Council shall make a statistical return to Department of Transport, Local Government and the Regions (DTLR) for onward transmission to the European Commission concerning the contracts awarded during the year under the European rules.
- 23.2 The Procurement Officer is responsible for this statistical return and will make the necessary arrangements for information to be collected annually. Service Heads shall comply with these arrangements.
- 24 Review and Amendment of Contract Procedure Rules**
- 24.1 These contract procedure rules shall be reviewed and updated on a regular basis, not less than annually. Power to amend the contract procedure rules has been delegated to the Audit Committee.

⁶⁴ Internal Audit currently maintains an electronic contract register that will be developed and made available Council wide.

EU THRESHOLDS 2004 - 2005

The proposed tender will fall within the Regulations if its estimated value is greater than the prescribed thresholds. These have been summarised in Table 1 below.

Table 1: Relevant Thresholds for Supply, Works and Services Regulations (net of VAT)

Regulation Threshold	European Threshold	Equivalent UK*
Supply Contract	236,945 ECU	£153,376 ¹
Prior Information Notice	750,000 ECU	£485,481
Services Contract	236,945 ECU	£153,376 ¹
Prior Information Notice	750,000 ECU	£485,481
Works Contract	5,923,624 ECU	£3,834,411 ²
Prior Information Notice**		

* - Applying from 1 January 2004

** - Must be published for each proposed contract

Note

¹ With the exception of the following Services which have a threshold of £129,462 Euro 200,000):
Part B (residual services)
Research and Development Services (Category 8)
Some telecommunications services
Subsidised service contracts under Regulation 25 of the Public Services Contracts Regulations 1993.

² For subsidised service contracts under Regulation 25 of the Public Services Contracts Regulations 1991, the threshold is £3,236,542 (Euro 5,000,000)

The Regulations provide guidance on how to estimate the value of proposed tenders, and you should refer directly to the appropriate Regulations when calculating the total value of a proposed contract. If, after calculation, the value of the contract exceeds the appropriate threshold, it will fall within the scope of the Regulations. The method of calculation used depends upon the type of purchase to be undertaken.

EU TIMESCALES FROM DESPATCH TO OJEU

Table 2: Summary of time periods prescribed for the Open, Restricted and Negotiated Procedures.

Procedure	Expressions of Interest (No of Days)	Receipt of Tender (No of Days)
SUPPLY CONTRACTS		
Open	-	52
Restricted	37	40
Accelerated Restricted	15	10
Negotiated - with advert	37	-
Accelerated Negotiated	15	-
Negotiated - without advert	-	-
SERVICES CONTRACTS		
Open	-	52
(with PIN)	-	36
Restricted	37	40
(with PIN)	37	26
Accelerated Restricted	15	10
Negotiated- with advert	37	-
Accelerated Negotiated	15	-
Negotiated - without advert	-	-
WORKS CONTRACTS		
Open	-	52
(with PIN)	-	36
Restricted	37	40
(with PIN)	37	26
Accelerated Restricted	15	10
Negotiated- with advert	37	-
Accelerated Negotiated	15	-
Negotiated - without advert	-	-

Notes:

- The count starts on the day after the notice is despatched to the OJ. If the last day is a Saturday, Sunday or public holiday then the receipt or closing date will be the first ordinary working day.
- PIN - Prior Information Notice

Extreme Urgency

In cases of extreme urgency it is possible to use accelerated restricted or negotiated procedures. The use of the shortened time periods is strictly defined and their use must be justified. The cause of the 'cases of extreme urgency' must be outside the Council's control and should be unforeseeable. It should be noted, for example, that having to spend funds before a specific date would not be considered an appropriate reason.

Part 4, Section 8

Officer Employment Procedure Rules

1. RECRUITMENT AND APPOINTMENT

(a) **Declarations**

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they or their partner are the parent, grandparent, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of or in a continuing close personal relationship with an existing councillor or officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant Service Head or an officer nominated by him/her.

(b) **Seeking support for appointment**

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor or officer for any appointment with the Council. The content of this paragraph will be included in any recruitment information
- (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment as an officer with the Council.
- (iii) Nothing in paragraphs (i) and (ii) will preclude a Councillor or officer from giving a written reference for a candidate for submission with an application for appointment

2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

Where it is proposed to appoint a Head of Paid Service (Chief Executive), Chief Officer or their deputies (Corporate Director or Service Head) and it is not proposed that the appointment be made exclusively from among existing officers, the Council will:

- (a) Draw up a statement specifying:
 - (i) the duties of the officer concerned (the job description); and
 - (ii) any qualifications or qualities to be sought in the person to be appointed (the person specification);
- (b) 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
- (c) make arrangements for a copy of the statements mentioned in paragraph 2(a) to be sent to any person on request.

3. APPOINTMENT OF HEAD OF PAID SERVICE

- (a) The Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by the Personnel Committee of the Council. That Panel must include at least one member of the Cabinet.
- (b) The Committee must not make an offer of an appointment as the Head of Paid Service until it has notified the Head of Administration Services of the name of the person to whom it wishes to make the offer and any other particulars which the Committee considers are relevant to the appointment; the Head of Administration Services has notified every member of the executive of the name of the person to be appointed, any other particulars relevant to the appointment which the Committee has notified to him and the period within which any objection is to be made by the executive leader on behalf of the executive; and either the executive leader has, within the period specified in the notice, notified the Head of Administration Services that neither they nor any other member of the executive has any objection to the making of the offer; the Head of Administration Services has notified the Committee that no objection was received by him within that period from the executive leader; or the Committee is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

4. APPOINTMENT OF CORPORATE DIRECTORS AND SERVICE HEADS

- (a) The Personnel Committee will appoint Corporate Directors and Service Heads. The Committee must include at least one member of the Cabinet.
- (b) The Committee shall:
 - (i) Select a short list of suitably qualified applicants.
 - (ii) Where no qualified person has applied the Chief Executive shall make further arrangements for advertising the post in accordance with paragraph (2)(b) above.
- (c) For the appointment of Corporate Directors the Committee shall comprise thirteen members, appointed on a proportional representation basis.
- (d) For the appointment of Service Heads the Committee shall comprise seven members, appointed on a proportional representation basis.
- (e) The Committee must not make an offer of an appointment as a Corporate Director or Service Head until it has notified the Head of Administration Services of the name of the person to whom it wishes to make the offer and any other particulars which the Committee considers are relevant to the appointment; the Head of Administration Services has notified every member of the executive of the name of the person to be appointed, any other particulars relevant to the appointment which the Committee has notified to him and the period within which any objection is to be made by the executive leader on behalf of the executive; and either the executive leader has, within the period specified in the notice, notified the Head of Administration Services that neither they nor any other member of the executive has any objection to the making of the offer; the Head of Administration Services has notified the Committee that no objection was received by him within that period from the executive leader; or the Committee is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

5. OTHER APPOINTMENTS

- (a) **Officers below Service Head.** Appointment of officers below Service Head is the responsibility of the Head of Paid Service (Chief Executive) or his/her nominee, and may not be made by councillors.
- (b) **Assistants to political groups.** Any appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. APPOINTMENT OF STAFF (GENERAL)

- (a) This section does not apply to appointments under paragraph (5)(b) above.
- (b) Subject to paragraph 6(a) above, no appointment to any paid office or employment with the Council shall be made in any way other than in accordance with such procedures as comply with the requirements of the next paragraph and may from time to time be approved by the Council upon consideration of a report from the Chief Executive and under section 4(3) (d) of the 1989 Act.
- (c) Subject to paragraph 6(d), those procedures shall include provision whereby:
 - (i) Arrangements shall be made under section 101 of the 1972 Act that every step towards any appointment of employees of the Council shall be taken by a committee, a sub-committee or an officer.
 - (ii) Those procedures both identify (or provide the means for the identification of) the posts in respect of appointment to which any step is to be taken by a committee or sub-committee and specify what that step is (or those steps are) to be.
 - (iii) No power to recommend any step towards the selection of candidates for interview, or for appointment, is to be exercised by an individual other than such officer, or by any body other than such committee, sub-committee or panel as may be identified by, or under the procedures.
 - (iv) Subject to such exceptions as may be prescribed in the procedures, all cases where the Council proposes to consider appointing an employee shall be publicly advertised.
 - (v) Where a post is so advertised, a description of the duties of the post (the job description) and of the qualities to be sought in the person to be appointed to it (the person specification) shall be drawn up and shall be included in the advertisement or given to all those who apply for the post.
- (d) Where a report of the Chief Executive concerns the procedures for the appointment of employees of the Council who are to work exclusively under the direction of a committee or sub-committee appointed jointly with another local authority, the Chief Executive shall ensure that, before the report is considered by the Council, that committee or sub-committee has an opportunity to consider the draft of such parts of the report as concern such appointments, and that the report incorporates their views thereon.
- (e) If any question arises at a meeting of the Council (or of a committee or sub-committee) to which section 100 of the 1972 Act applies to the appointment, promotion, dismissal, salary, pension or conditions of service, or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council,

committee or sub-committee, as the case may be, has decided whether or not the power of exclusion of the public under section 100A of the 1972 Act shall be exercised.

7. DISCIPLINARY ACTION AND DISMISSAL

'Disciplinary action' means any action related to misconduct by, or the lack of capability of, an employee of the authority where it is intended that such action should be recorded, or would according to the usual practice of the Council, be recorded on the personal file of the employee, and includes dismissal for any reason other than redundancy. It does not include failure to renew a contract by which an employee was a member of the paid staff of the authority for a fixed term.

8. DISCIPLINARY ACTION AND DISMISSAL – HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCIAL OFFICER

(a) **Suspension.** The Head of Paid Service (Chief Executive), Monitoring Officer (Corporate Director – Central Services) and Chief Financial Officer (Head of Financial Services) may be suspended by Personnel Committee provided that at least one member of the Cabinet is present whilst an investigation takes place into alleged misconduct. That suspension will normally be on full pay and will not normally last longer than two months. In circumstances where a decision is taken to suspend a statutory Chief Officer the Personnel Committee will commission an investigation report to be prepared by an independent person. Once the investigation report has been submitted the Personnel Committee will meet again to decide whether there is a prima facie case to answer.

(b) **Independent Person.** 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 a designated independent person.

(c) The designated independent person appointed by the Council under paragraph 8(b) above shall be such person as may be agreed between the Council and the Officer and/or their representative or, where such agreements cannot be reached a person appointed by the Office of the Deputy Prime Minister.

(d) The designated independent person:

(i) May direct –

(1) that the Council terminate any suspension of the Officer concerned; or

(2) that any such suspension shall continue after the expiry of the period mentioned in paragraph 8(d), or, as the case may be, the expiry of any period specified in any such previous direction; or

(3) that the terms on which any suspension has taken place shall be varied in accordance with the direction; or

(4) that no steps (whether by the Council, a committee, sub-committee or authorised officer) towards disciplinary action or further disciplinary action against the officer, other than steps taken in the presence, or with the agreement, of the designated independent person, are to be taken before a report is made under paragraph 7(e)(ii) below;

(5) may inspect any documents relating to the conduct of the Officer which are in the possession of the Council, or which the Council has power to authorise him/her to inspect;

- (6) may require any officer of the authority to answer questions concerning the conduct of the Officer;
- (ii) Shall make a report to the Council –
 - (1) stating his/her opinion as to whether (and if so, the extent to which) the evidence they has obtained supports any allegation of misconduct against the Officer; and
 - (2) recommending any disciplinary action which appears to him/her to be appropriate for the Council to take against the Officer; and
 - (3) shall no later than the time at which they makes the report under paragraph 8(d)(ii), send a copy of the report to the Officer.
- (e) Prior to the making of a direction under paragraphs 8(d)(i)(1), (2) or (3), the designated independent person shall give both the Council and the Officer the opportunity of making representations to him/her and shall take such representations into consideration when making the direction. Such representations may be made in person or in writing as the designated independent person may determine.
- (f) The Council shall pay the remuneration of the designated independent person and any costs incurred by him/her in or in connection with the discharge of his/her functions under Rule 8.

9. DISCIPLINARY ACTION AND DISMISSAL – HEAD OF PAID SERVICE, CORPORATE DIRECTORS AND SERVICE HEADS

- (a) The Personnel Committee as we know it has delegated authority to dismiss any Chief Officer except the Head of Paid Service, the Monitoring Officer or the Chief Financial Officer. Any proposal to dismiss the statutory Chief Officers must be approved by full Council.
- (b) The Council is the only member body that can approve the dismissal of the Head of Paid Service and this will be following the recommendation of the Personnel Committee. That Committee must include at least one member of the Cabinet.
- (c) The Investigating Committee for the purposes of the JNC Conditions of Service shall be the Personnel Committee. That Committee must include at least one member of the Cabinet.
- (d) The Personnel Committee must not give notice of the dismissal of the Head of Paid Service, a Corporate Director or a Service Head until it has notified the Head of Administration Services of the name of the person whom it wishes to dismiss and any other particulars which the Committee considers are relevant to the dismissal; the Head of Administration Services has notified every member of the executive of the name of the person to be dismissed, any other particulars relevant to the dismissal which the Committee has notified to him and the period within which any objection is to be made by the executive leader on behalf of the executive; and either the executive leader has, within the period specified in the notice, notified the Head of Administration Services that neither they nor any other member of the executive has any objection to the dismissal; the Head of Administration Services has notified the Committee that no objection was received by him within that period from the executive leader; or the Committee is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

10. DISCIPLINARY ACTION AND DISMISSAL – OTHER STAFF

- (a) The function of dismissal of and taking disciplinary action against a member of staff other than the head of paid service, a Corporate Director or a Service Head must be discharged by the head of paid service or by an officer nominated by him. This will be in accordance with the Council's Disciplinary Policy and Procedure, as adopted from time to time which may allow a right of appeal to the Appeals Committee.
- (b) No disciplinary action shall be taken except in a manner which is fair to the employee concerned, and which is in accordance with procedures approved by the Council from time to time upon consideration of a report by the Chief Executive under section 4(3)(d) of the 1989 Act.
- (c) Where an appeal against disciplinary action is made to the Appeals Committee, a report shall be submitted to that Committee setting out the facts which led to the disciplinary action against which the appeal is made, the disciplinary action taken, the reasons for the action taken, and the recommendations on the appeal of the person preparing the report. The report shall be prepared, in accordance with the procedures approved by the Council, by the Corporate Director or Service Head of the service in which the employee works.
- (d) A copy of the report under the last paragraph shall be given to the employee concerned.
- (e) The members of the Committee shall be supplied, at the authority's expense, with a copy of any representations in writing submitted by the person making the appeal. The Committee shall be advised by the Chief Executive or by a chief officer other than one who prepared the report under paragraph (c) above.
- (f) The Committee shall not make any decision on the appeal which would result in the employee concerned suffering a disciplinary penalty more severe than that recommended in the report under paragraph 7(c) above.

11. NO DIRECTIONS TO BE GIVEN TO PERSONS MAKING APPOINTMENTS OR TAKING DISCIPLINARY ACTION

- (a) Save as specifically provided for elsewhere in these Rules, neither the Council nor the Cabinet or Committee or Overview and Scrutiny meeting or individual Councillor, nor any other person shall directly or indirectly:
 - (i) give directions to any person taking any step in relation to an appointment to a post in the paid service of the authority as to the identity of the person to be appointed;
 - (ii) give directions about the taking of any disciplinary action in relation to a person in the paid service of the authority; or
 - (iii) otherwise interfere with the making of such an appointment or the taking of disciplinary action,
- (b) Provided that:
 - (i) any body who are, or any person who is, empowered to take any step in relation to an appointment, or to take disciplinary action may give such directions as may be necessary to give effect to a decision which they have, or he or she has, taken in exercise of that power; and
 - (ii) the Council, the Cabinet or any Committee or Overview and Scrutiny meeting of the Council, may call for a review of the conduct or capability of any employee.

PART 5

CODES AND PROTOCOLS

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Part 5, Section 1

Code of Conduct for Employees

FOREWORD BY THE CHIEF EXECUTIVE

The Council is committed to providing Community Leadership and quality services throughout the District. The Council recognises that this position can only be maintained and improved upon through achieving high standards of conduct and integrity, and therefore seeks to act as a model employer in setting out the expected standards of conduct of its employees.

This Code of Conduct aims not to restrict employees' actions, but rather to advise and guide them in carrying out their official duties, and to assist them in continuing to provide public services. The Code is intended to ensure highest standards of public conduct, and to protect the public, the Council and its employees.

The Code sets out minimum standards of conduct which are fair to all concerned, and which employees should at all times aim to achieve and maintain in work for the Council

The provisions of the Code of Conduct apply equally to all Lancaster City Council employees. Whilst it is inevitable that many of the issues covered will affect senior employees more than others, the same principles are relevant to all staff.

I hope that you will all join me in welcoming the Code as a positive means of maintaining and developing the already high standards to which the Council operates.

Mark Cullinan
Chief Executive

LANCASTER CITY COUNCIL - EMPLOYEES' CODE OF CONDUCT

1 OBJECTIVES AND STATUS OF THE CODE OF CONDUCT

- 1.1 The public are entitled to expect the highest standards of conduct from all employees who work within local government. This Code of Conduct outlines existing laws, regulations and conditions of service, and provides employees with guidance to assist them in their day-to-day work.
- 1.2 The purpose of the Code is to help ensure that the Authority's activities, through the actions of its employees, are conducted to the highest standards, as expected of Local Government, by:
- ◆ detailing existing laws, regulations and conditions of service.
 - ◆ providing further guidance to assist employees in their day-to-day work.
 - ◆ specifying standards and procedures which will help protect both the Council and its employees from misunderstanding and undue criticism.
- 1.3 The adopted Code of Conduct applies as part of the conditions of service of all employees working under a contract of employment to the Authority. All employees are expected to read, understand and accept the Code, and abide by the standards of behaviour expressed within it. The standards specified should also be adhered to by employees in any activities undertaken as members of companies, voluntary organisations or any other body and in their personal lives generally.
- 1.4 The Code does not replace, negate or remove any of the conduct issues set out in the various national terms and conditions, or in legislation such as the *Local Government and Housing Act 1989* and the *Local Government Act 200*, but seeks to clarify and consolidate all such conduct issues within a locally adopted code.
- 1.5 Employees are expected to follow the standards of behaviour set out in the Code, and should be aware that failure to meet these standards may lead to action being taken by the Council under its Disciplinary Procedure.

2 CORRUPTION

2.1 Background

- (a) The Council aims to promote the high standards of personal behaviour expected of all employees in the public services. The public has every right to expect the highest standards of honesty and stewardship of public money and resources.
- (b) Under *Section 117(1) of the Local Government Act 1972*, officers are required to notify the Authority of pecuniary or personal interests in contracts which the Authority is proposing to enter into (excluding contracts in the employee's own name). This requirement is embraced in National Conditions of Service also.
- (c) Under *Section 117(2) of the same Act*, an employee is forbidden "*under cover of his office or employment (to) accept any fee or reward whatsoever other than his proper remuneration*".
- (d) The acceptance of gifts by way of inducement or reward is covered by the *Prevention of Corruption Acts 1906 and 1916* which provide that:
 - (i) it is an offence for employees corruptly to accept any gifts or consideration as an inducement or reward for:
 - ◆ doing, or refraining from doing, anything in their official capacity; or
 - ◆ showing favour or disfavour to any person in their official capacity.
 - (ii) any money, gift or consideration received by an employee in public service from a person or organisation holding or seeking to obtain a contract will be deemed by the courts to have been received corruptly unless the employee proves to the contrary.

2.2 Expected Standard

Employees must at all times exercise due caution and care to avoid any possible allegation, however unfounded, that business has been conducted improperly or corruptly

2.3 How To Comply With The Standard

- (a) You should be aware that it is a serious criminal offence to corruptly receive or give any gift, loan, fee, reward or advantage for doing or refraining from doing something, or to show favour or disfavour to any person in your official capacity. If an allegation is made, it is for you to demonstrate that any such rewards have not been corruptly given or received. You should also be aware that this applies equally to bodies already holding contracts as to those seeking to secure contracts.
- (b) You must declare any personal or pecuniary interest in contracts which the Authority is proposing to enter into, in accordance with the procedures laid down in Sections 7 and 8 of the Code, and observe the procedures for dealing with gifts and hospitality in Section 9.
- (c) You should be aware that any departure from these standards will be treated as a most serious matter, both under the terms of the Council's disciplinary procedures, and where necessary, through the processes of law.

3 STANDARDS OF CONDUCT

3.1 Background

- (a) The Code of Conduct incorporates the provisions of *paragraph 2.1 of the Green Book (National Agreement on Pay and Conditions of Service, NJC for Local Government Services)* which states:

"Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained."

Similar provisions are incorporated in the national conditions of service of Chief Executives and Chief Officers.

3.2 Expected Standard

Employees are expected to give the highest possible standard of service to the public, to provide appropriate advice to councillors and fellow employees with impartiality, and to promote and assist in the maintenance and development of the Council's services in the most efficient and economical manner and in accordance with the Authority's stated policies and procedures.

3.3 How To Comply With The Standard

- (a) You are expected to conduct yourself at all times in a manner consistent with your employment status. As a representative of local government in general and the Council in particular, you should be constantly mindful of a requirement of integrity, honesty and impartiality in your dealings with councillors, the public, and fellow employees.
- (b) Officers can brief Members in accordance with the Member/Officer Protocol but must not provide political advice.
- (c) You are advised that personal conduct outside office hours which could conceivably be regarded as undermining your ability to carry out your duties may lead to the Authority seriously considering your suitability as an employee.
- (d) You are expected to report any issues which contravene this Code of Conduct, in accordance with the Council's Whistleblowing Policy, to your Service Head or Director, or if this is not appropriate for any reason, to the Chief Executive (Service Heads should report to their Director, and Directors to the Chief Executive).

4 POLITICAL CONSIDERATIONS

4.1 Political Neutrality

4.1.1 Background

- (a) Employees are employed to serve the Council as a whole and to carry out the work of the Council's Cabinet, Overview and Scrutiny meetings and other Committees through the direction of line management.
- (b) No Member acting individually has the power to instruct an employee to take an action. Members can instruct action only through the consent of the Council, the Cabinet or Regulatory Committee.
- (c) Employees, other than Directors and Service Heads, may not act on a Member decision unless instructed, or given delegated authority to do so by the appropriate Director or Service Head.
- (d) Employees must abide by the policies of the Council and must not allow their own personal or political opinions to interfere with their work or to bias their approach to dealings with any individual Member, of whatever party.
- (e) Councillors of one Party have no more rights than Councillors of another Party. Councillors who hold formal positions within the Cabinet or as Overview and Scrutiny or Committee Chairmen may need to be briefed on issues relevant to their roles as chairs of meetings.
- (f) Employees will not be required to advise political groups and should not do so unless specifically required to do so by the Chief Executive.
- (g) Employees must always treat Councillors with due respect as the directly elected representatives of the community, and our employers.

4.1.2 Standard

Employees serve the Authority as a whole.

4.1.3 How To Comply With The Standard

- (a) Services should only act on decisions made by the Council, the Cabinet or Regulatory Committees convened and minuted by the Chief Executive or by an officer authorised to act on behalf of the Chief Executive, and should not act on the instruction of a Member acting individually.
- (b) You should only act on decisions under the direction or instruction of your Service Head or Director, and not that of individual Members.
- (c) If you are in any doubt as to the legitimacy of a decision of a Member meeting, you should seek the advice of the Administration Service, Financial Service or Legal Service before acting on that decision.

- (d) Do not allow your own personal or political opinions to interfere with your work, or to bias your approach to dealings with any Member, of whatever party.
- (e) Officers must not give political advice.
- (f) You should not advise political groups unless specifically required to do so by the Chief Executive, or by an officer authorised to act on behalf of the Chief Executive.

4.2 Politically Restricted Posts

4.2.1 Background

- (a) The *Local Government and Housing Act 1989, Part 1* contains provisions to prevent 'twin-tracking' (where a senior local authority employee is also an elected member of another local authority), and to restrict the political activity of senior employees. Local authority employees holding politically restricted posts are: disqualified from membership of any local authority other than a parish or community council (s1(1)); disqualified from being an MP or MEP; and subject to prescribed restrictions on their political activity (s1(5 & 6)).
- (b) Details of the definitions of posts carrying political restriction, and the substance of the restrictions are given in Appendix A.
- (c) The political restrictions are deemed to be incorporated in the contract of employment of every local authority employee who holds a politically restricted post.

4.2.2 Expected Standard

Employees in Politically Restricted Posts should be fully aware of, and act in accordance with legally prescribed restrictions on their activity.

4.2.3 How To Comply With The Standard

- (a) If your post is covered by the regulations, you should ensure that you are familiar with, and understand, the restrictions, and comply with them at all times. If you are in any doubt about any issue, you should contact Legal Services.

4.3 Relationships

4.3.1 Background

- (a) Mutual respect between Councillors and officers is essential to good local government.
- (b) Councillors and Officers are all servants of the public, and their respective roles depend heavily on the others. Their responsibilities are, however, distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council, their job being to give advice to the Council, and to carry out the Council's work under the direction and control of the Council, its Cabinet and Committees.
- (c) Officers should be familiar with, and have regard at all times to the guidance provided in the Council's Officer/Member Protocol.

4.3.2 Expected Standard

The roles and responsibilities of Members and Officers are distinct but heavily interdependent. Employees should aim to ensure that mutual trust and respect is maintained and developed.

4.3.3 How To Comply With The Standard

- (a) You should be constantly aware of the importance of maintaining good relationships with Members, and especially the need for mutual respect and trust. You should therefore avoid anything which could compromise the relationship, and/or lead others to suspect that either party could unduly benefit from the relationship
- (b) You must always respect Councillors and in all dealings, address them in an appropriate manner.
- (c) You should be familiar with and must pay regard to the guidance set out in the Member/Officer Protocol.

5 DISCLOSURE AND CONFIDENTIALITY OF INFORMATION

5.1 Background

- (a) The Council is required by law to make certain types of information available to members, auditors, government departments, service users and the general public. It can also declare other types of information as being 'open'. Employees should be aware of the types of information which are, and are not open, and act accordingly in handling that information. Employees may, for example have a legal or professional duty to disclose information to a third party in the course of legal proceedings.
- (b) Regulations relevant to the disclosure and confidentiality of information are outlined in Appendix B. Employees' attention is also drawn to the Access to Information Rules contained in the Council's Constitution.
- (c) The Council has issued a statement of Data Protection Policy which constitutes a part of employees' terms and conditions of service. Further information and advice on responsibilities under the Act are available from the Information Management Officer in Administration Services, as the Council's Data Protection Officer.

5.2 Expected Standard

Employees should ensure that information is used only for lawful and properly authorised purposes.

5.3 How To Comply With The Standard

- (a) You should not use any information obtained in the course of your work for personal gain or benefit, nor should you pass it on to others who might use it in such a way. If you receive specific information, from whatever source, in the course of carrying out your duty, you should not divulge it, except where such disclosure is required or sanctioned by the law.
- (b) You should not disclose, without express permission, information relating to exempt agenda items and reports. No reports relating to staffing, financial, commercial, disciplinary, political or other confidential matters should be disclosed to any unauthorised person without the prior express permission of the Council, the Chief Executive, or the relevant Director.
- (c) You should be aware of the Council's guidelines on dealing with the press and media, and should not normally make statements to the press or media. Councillors, Directors and Service Heads, the Communications Officer and certain specifically nominated Officers are authorised to make statements on behalf of the Authority.
- (a) You should be aware that in the course of your work, you may have access to personal or otherwise confidential information, some of which may fall within the scope of the Data Protection Act. The Council expects you to respect the confidentiality of all information, both during and subsequent to a period of employment with the Council, in accordance with its statement of Data Protection Policy.
- (e) The leaking of confidential or exempt information to a third party may be viewed as a disciplinary matter.

6 PERSONAL INTERESTS AND PERSONAL RELATIONSHIPS

6.1 Background

The Council wishes to ensure that its employees are treated equitably, are protected against any unfounded allegations of impropriety and are able to act without discrimination of any kind in the conduct of their duties. It is important, therefore that there is an openness in the declaration of all interests that could have an influence on an employee's conduct and/or decision making and that public confidence in Council officers is maintained.

6.2 Expected Standard:

In order that all employees are able to act with impartiality in the conduct of their official business, there should be openness in the declaration of all personal interests and personal relationships which could, or be perceived to, influence their conduct.

6.3 How To Comply With The Standard

6.3.1 Personal Interests

- (a) A central confidential register of declared interests will be maintained by the Head of Administration Services which will be accessible only by the Chief Executive, the relevant Director and Service Head, the Monitoring Officer and their Deputy and the Internal Audit Manager, all of whom may advise employees on questions of conflicts of interest, and on their inclusion or exclusion from the register.
- (b) Not all employees are required to complete written declarations for inclusion in the register. Only the following declarations will be required from employees:
 - (i) Those made on a permanent basis by employees included on the Council's list of Politically Restricted posts as set out in Appendix A to the Code of Conduct (see paragraph (c) below)
 - (ii) Those on a voluntary basis by any other employee (see paragraph (c) below)
 - (iii) Those made by any employee at the point of a potential conflict of interest (see paragraph (d) below).
- (c) All holders of Politically Restricted posts are required to make a written declaration for inclusion in the register referred to in paragraph (b) above of any personal interests, whether financial or otherwise, which could conceivably conflict with the Authority's interests. Other employees may make similar declarations on a voluntary basis for inclusion in the register. For those who wish to do so, a form will be provided by Administration Services for such declarations.
- (d) Any employee whether they are on the list of PRPs or not who, in the course of Council duties, deals with or is involved in a matter in which the employee has a personal interest, is required to declare that interest to their Service Head (Service Heads to their Director and Directors to the Chief Executive) before dealing with the matter or participating in any discussion, advice or decision on the matter. The employee should at the same time complete a form provided by Administration Service, which will be kept in the confidential register referred to in paragraph (b) above. The employee will then take no further part in that matter. In formal meetings, the employee should inform the Chair of the meeting, the senior officer present, and the officer minuting the meeting, and if they feel it appropriate, the officer should leave the room and take no further part in the matter.

- (e) for the purposes of paragraphs (c) and (d) above, personal interests include:-
- any interest in property within the Council's area,
 - any outside employment;
 - any financial interests in outside bodies and businesses within the Council's area;
 - membership of any charity or body directed to charitable purposes;
 - any body whose principal purposes include the influence of public opinion or policy;
 - membership of any organisation where a candidate for membership can be vetoed by existing members or by a selection committee.

These could include, for example: involvement with an organisation receiving grant aid from the Council, or involvement with a pressure group which may seek to influence the Authority's policies. For the purposes of paragraph (d) above, an officer should be mindful that a personal interest may include the interest of a close family member or friend, and that the public perception of propriety must be overriding.

- (f) Any changes to the declarations held in the central register must be notified to the Head of Administration Services within 28 days of the change.

6.3.2. Personal Relationships

Any employee should tell their line manager, Service Head or Director about any continuing close personal relationship with a family member, partner, spouse or other continuing close relationship that goes beyond that of a simple friendship which might be expected to exist between work colleagues should such a relationship lead to an actual or potential conflict of interest. The information provided will be treated in the strictest confidence and will be available only to managers who comprise the line management chain relating to the employee's post and that of the colleague with whom the close personal relationship exists. It is the employee's responsibility to advise their line manager of any continuing close personal relationship with a colleague only where this may lead to a conflict of interest or the perception of such a conflict on the part of your colleagues, your employer, or a member of the public.

7 OUTSIDE COMMITMENTS

7.1 Background

- (a) Officers on or above Scale 6 are required by their contract of employment to devote their whole-time service to the work of their council and not to engage in any other business or take up any other additional appointment without the express consent of the Council.
- (b) For other Officers, the Council does not seek to restrict employees undertaking additional employment, but stresses to employees of all grades that they should not undertake outside work if:
- ◆ their official duties overlap in some way with their proposed work;
 - ◆ it causes a conflict of interest; or
 - ◆ it makes use of material to which the employee has access by virtue of his/her position (for example an architect or planner who draws up plans within the Authority on behalf of an applicant for planning consent).
- (c) It is irrelevant whether or not the work is paid. Employees' attention is drawn to the National Conditions of Service, which state that an officer's off-duty hours are his personal concern, but he should not subordinate his duty to his private interests to put him in a position where his duty and his private interests conflict. The employing authority should not attempt to preclude officers from undertaking additional employment, but any such employment must not, in the view of the authority, conflict with or react detrimentally to the authority's interests, or in any way weaken public confidence in the conduct of the authority's business.
- (d) These provisions are applicable to all employees.

7.2 Expected Standard:

Employees should not undertake outside work where there is, or could be construed to be, a conflict of interest with their official duties

7.3 How To Comply With The Standard

- (a) If you are employed at or above the grade of Scale 6, or its equivalent, you should gain the permission of your Service Head in writing, before undertaking any outside work, paid or unpaid, see 7.1 above
- (b) Service Heads should obtain permission in writing from their Director, and Directors from the Chief Executive before undertaking any outside work or interests.

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- (c) If you are employed on a grade below Scale 6, you should gain permission from your Service Head for any outside interests or activities where there could be any suggestion of that activity being in conflict with your work with the Council, or where those activities might otherwise come into conflict with other areas of Council business.
- (d) You are not allowed to undertake outside work of any sort in Council premises, and the use of Council facilities for such work is forbidden (this includes for example: telephones; typing services; and computing facilities). You are also instructed that correspondence and incoming telephone calls related to outside work are not permitted.
- (e) You are, by agreement with your Service Head, permitted to use photocopying and printing facilities for personal purposes, subject to the payment of a suitable fee. You must only undertake private printing by means of the central printing section, and pay for the work. Conditions relating to private use of the Internet are contained within the Council's Internet and E-mail Usage Policy. You should declare any outside interest for which these facilities are used as provided for in the rest of this section.
- (f) If you have any doubts at all about these requirements and how they might affect you, you should seek advice from your Service Head or Director.

8 GIFTS AND HOSPITALITY

8.1 Background

- (a) From time to time, employees are faced with the difficulty of deciding whether or not to accept hospitality or gifts which arise during the conduct of business activities. Whilst it is impossible to cover every set of circumstances, the following guidelines should provide a basis for making a decision in the majority of cases.
- (b) Officers should generally exercise great care and caution in giving or accepting any form of gift or hospitality which could in any way be connected with the conduct of their duties. On all occasions, both the extent and circumstances of the offer should be considered. It should be remembered that the service, resources and opportunities you 'control' when working for the Council are not yours but the whole community's resources which they are entrusting to you to use and distribute fairly. The acceptance of personal favours cannot be returned and should therefore be avoided.
- (c) Hospitality extended by employees should be justifiable as being in the public interest, and should be on a scale appropriate to the occasion.
- (d) Employees should always refuse offers of gifts or hospitality where there could conceivably be a suggestion of improper influence, or where it not is on a scale appropriate to the circumstances. Particular caution is necessary where the offer comes from a person or organisation having or seeking to establish dealings with the Authority, and/or when a gift or hospitality is offered to an individual rather than a group of officers.
- (e) Employees will be entitled to take advantage of any City Council services offered to them at a reduced rate, as determined by the relevant Director.

8.2 Expected Standard

Employees should exercise great care in giving or accepting any form of gift or hospitality in order to avoid any possible suggestion, however unfounded, of improper influence.

8.3 How To Comply With The Standard

8.3.1 Acceptable and Unacceptable Gifts

- (a) You may regard the following gifts, under normal circumstances, as acceptable:
 - Gifts of a promotional nature, of the sort given to a wide range of people, and not offered uniquely to a particular officer. These will typically be gifts of a low intrinsic value, including, for example; calendars, pens, diaries and other minor items of office equipment.
 - Gifts generally distributed at the end of a demonstration, promotion or presentation, or at the conclusion of a courtesy visit. Again these are normally of low value and made generally available to all those attending.

- Participation in, or attendance at subsidised City Council services, activities or events provided with the approval of the relevant Director.
- (b) You should regard the following as unacceptable:
- Any gift which may be deliberately and directly linked to the performance of your official duties, or those of employees for whom you are responsible.
 - Any gift which might be interpreted as having been offered in order to influence your conduct, or which may be interpreted as potentially influencing your conduct.
 - Any gift offered under such circumstances that acceptance may compromise your position.

8.3.2 Procedure for Dealing With Gifts

- (a) If you are offered, or receive a gift, you should immediately report the matter to your Service Head (Service Heads should inform their Director, and Directors should inform the Chief Executive. With the exception of gifts clearly falling into the categories described in paragraph 8.3.1(a), your Service Head should ensure that the details are recorded in the register of gifts maintained by the Head of Administration Services, which should include:
- details of who offered or presented the gift;
 - who received the gift;
 - a brief description of the gift and estimated value if possible;
 - details of whether the gift was accepted, returned or disposed of in some other way.
- (b) Should there be any doubt as to the acceptability of a gift, you or your Service Head should seek the advice of your Director, or alternatively the Monitoring Officer (the Corporate Director (Central Services)).
- (c) You should politely decline any gifts which are unacceptable, and explain the reason to the person making the offer. If it is clear to you that a deliberate attempt has or is being made to influence your conduct, you and/or your Service Head should report the matter to the Monitoring Officer (the Corporate Director (Central Services)) or the Internal Audit Manager.
- (d) If it is impossible or impractical to return a gift which is considered unacceptable, then it is recommended that you donate it to an appropriate charity. Again, you should politely inform the organisation sending the gift of the action that has been taken.

8.3.3 Provision of Gifts by Officers

- (a) You should not issue gifts to outside contractors, suppliers, or would-be customers. Similarly, you are not permitted to offer confidential information, or promises of preferential treatment as an inducement to trade.
- (b) The distribution of small promotional items is acceptable providing that you make the items generally available to all would-be customers or contractors.

- (c) You should never put yourself in a position where an allegation could be made that you have made unfair or unauthorised inducements to current or prospective customers or contractors in order to secure trade or contracts.

8.3.4 Acceptance of Hospitality

- (a) As with gifts, it is impossible to establish a conclusive list of what is, and is not acceptable in every situation. You must clearly exercise caution whenever you are offered hospitality by a person or body having or seeking business, contracts or a decision from the Council, particularly where the offer is made to you individually.
- (b) Generally, it is more acceptable for you to join in hospitality widely offered to a number of clients or would-be clients, than to accept offers of hospitality made solely to you or a group of Officers of the Council. Accepting personal hospitality or favours can place you in a difficult position, and you are not able or authorised to return them.

8.3.5 Acceptable and Unacceptable Hospitality

- (a) You may regard the following as examples of acceptable hospitality:
- An invitation to a function where you are representing the Council (for example as a speaker, or to perform an opening ceremony), or to functions attended by virtue of your status or position in the Authority.
 - Offers of hospitality by other non-commercial bodies.
 - Working lunches provided to enable you to continue discussions with other parties.
 - Meals or other hospitality at conferences and exhibitions where the hospitality is offered or provided to a wide range of clients. This would include similar hospitality offered to you when in the company of Members.
- (b) You should regard the following as examples of unacceptable hospitality:
- Holidays, weekend breaks.
 - Free access to facilities, for example the payment of golf club subscriptions, membership of health, fitness or social clubs.
 - Personal use of company flats or offers of hotel accommodation.
 - ALL offers of hospitality where you feel that there may be an attempt to exert improper influence on your professional conduct.
- (c) The following are examples of hospitality which you should only accept with your Director's permission, after consideration of all the circumstances.
- Invitations to sporting or entertainment events whether or not accompanied by the person offering the hospitality. This would include, for example, hospitality provided in reserved boxes at race meetings, football or cricket matches, etc. If you attend any such events, this must be in your own time, by taking annual leave if necessary.

- Tickets to events such as theatres, cabarets, sportsmen's evenings, and sporting events, especially those unconnected with the local community.
 - Personal invitations to occasions with representatives of persons or bodies having dealings with the Council, especially whilst the Council is actively reviewing business which might include that organisation's interests.
- (d) Circumstances at the time are likely to have a considerable influence on whether you should regard an offer as acceptable or not. It may be particularly ill advised for officers to be seen to attend an event organised by a particular company at a time when that company is attempting to secure a contract with the Council, even when, under other circumstances, the offer might be deemed to be acceptable. You should exercise equal caution when dealing with persons or organisations already under contract to, or having business with the Council.

8.3.6 Procedures for Dealing with Offers of Hospitality

- (a) With the exception of hospitality clearly falling into the categories listed in paragraph 8.3.5(a), you should immediately report any offer of hospitality to your Service Head (Service Heads should report to their Director and Directors to the Chief Executive). The Head of Administration Service will maintain a register recording offers in the same manner as that for recording details of gifts (paragraph 8.3.2(a) refers).
- (b) Initially, Service Heads should exercise their judgement in deciding whether or not the offer of hospitality should be accepted. In case of uncertainty, the advice of the relevant Director should be sought.

8.3.7 Provision of Hospitality by Officers of the Council

- (a) Modest hospitality is recognised as an accepted courtesy of business relationships, and is an important aspect of customer care and image projection. You must, however, ensure that the level of hospitality offered is reasonable, appropriate to the circumstances, and can be fully justified.

9 SPONSORSHIP - GIVING AND RECEIVING

9.1 Background

- (a) Where an outside organisation wishes to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts and hospitality will apply. Particular care must be taken when dealing with existing or potential contractors.
- (b) Where the Authority wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative should benefit from such sponsorship, grant aid, financial or other means.

9.2 Expected Standard

Employees should ensure that, in the offering, or securing, of sponsorship, every effort is made to avoid conflict of interest or any possible suggestion of improper influence, however unfounded.

9.3 How To Comply With The Standard

- (a) In all dealings with persons or bodies offering (or being offered) sponsorship, you should ensure that impartial advice is given, and that there is no conflict of interest involved.
- (b) If you have dealings with organisations offering sponsorship to the Council, you should report the matter to your Service Head (Service Heads should inform their Director, and Directors should inform the Chief Executive). Service Heads should ensure that they are recorded in the register of sponsorship maintained by the Head of Administration Service, which should include:
 - details of who offered the sponsorship;
 - the service or event being sponsored;
 - a brief description of the sponsorship, and estimated value if possible;
 - details of whether the offer was accepted or not;
 - authorisation of the action taken (including the reasons) by the Service Head or his/her authorised deputy.
- (c) Should there be any doubt as to the acceptability of an offer of sponsorship, the advice of your Service Head or Director, or alternatively the Monitoring Officer (the Corporate Director (Central Services)) should be sought.
- (d) If the Authority is proposing to sponsor an event or service, you should ensure that neither you, nor your partner, spouse or any relative should benefit from it in any way. You are required to report any potential benefit of this sort immediately to your Service Head (Service Heads should report to their Director, and Directors to the Chief Executive) and to have it entered in the register of interests maintained by the Head of Administration Service).

10 USE OF FINANCIAL RESOURCES

10.1 Background

- (a) Sound financial management covers all aspects of the Council's work so as to:
- safeguard its assets
 - promote operational efficiency in accordance with policies and directives
 - protect employees at all levels

10.2 Expected Standard

Employees must strive to ensure that they use public funds entrusted to them in a responsible and lawful manner, and seek to secure value for money in the provision of their services.

10.3 How To Comply With The Standard

- (a) You are expected to ensure that public funds entrusted to you are used in a responsible and lawful manner. You should strive to ensure value for money to the local community and to avoid any prospect of legal challenge to the Authority. You should therefore be aware of the Council's Financial Regulations and Financial Procedures, which define the rules for sound financial management. These are available from Service Heads and Directors. You should also be familiar with all relevant sections of the more detailed corporate guidance on financial procedures, and also with any of your Service's own specific procedures and regulations. Information regarding the corporate guidance on financial procedures is available from Service Heads or Directors, or alternatively from Internal Audit.

11 THE SELECTION OF DEVELOPERS, CONSULTANTS OR CONTRACTORS

11.1 Expected Standard

Employees involved in the selection of developers, consultants, contractors or suppliers should ensure that their actions are undertaken with openness and within the limits of authority delegated to them.

11.2 How To Comply With The Standard

- (a) If you are involved in the selection of developers, consultants, contractors or suppliers, you must adhere to the Council's stated procedures. You should therefore be familiar with the rules set out in Financial Regulations, Financial Procedures and Contract Procedure Rules; be familiar with your own Service's procedures; and be aware of the limits of any authority delegated to you. In particular, you should be aware of Contract Procedure Rules, corporate guidance on Contract and Project Management, and of the relevant Financial Regulations and procedure Rules which deal with budgetary control and authority to incur expenditure.
- (b) If you are involved in these arrangements and have any form of pecuniary, financial or personal interest or involvement with any contract or supply, you must declare that interest immediately to your Service Head (Service Heads report to Directors and Directors to the Chief Executive).

12 SEPARATION OF ROLES DURING TENDERING

12.1 Expected Standard

Employees involved in tendering processes should be clear as to their role, and act with openness in order to ensure the fair and impartial treatment of all interested parties.

12.2 How To Comply With The Standard

- (a) If you are involved in tendering processes, and in dealing with contractors, you should be familiar with the requirements of the Council's Standing Orders and Financial Regulations, and clear on the separation of client and contractor roles within the Authority.
- (b) As an employee in either a contractor or a client unit, you must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- (c) Should you have access to confidential information on tenders or costs for either internal or external contractors, you should not disclose that information to any unauthorised person or organisation.
- (d) If you have a direct connection with any company, contractor or tenderer, either personally or through any immediate relative or close personal friend, you should disclose this to your Service Head (Service Heads report to Directors and Directors to the Chief Executive), and have it entered in the register of interests maintained by the Head of Administration Service before you become involved in the tendering or contract process.

13. APPOINTMENTS AND OTHER EMPLOYMENT MATTERS

13.1 Background

- (a) Section 7 of the Local Government and Housing Act 1989 requires all local authority appointments to be made on the basis of merit. It is therefore essential that employees make appointments based solely on the ability of the candidate to undertake the duties of the post. The Council's established Recruitment and Selection Procedures are designed to assist employees and members in fulfilling this responsibility, and should be closely adhered to. Further advice on the application of these procedures should be sought from the Personnel Service.
- (b) Employees involved in making appointments will be expected to be aware of, and comply with the following:
- The National Conditions of Service, which provide that every member and senior officer of the Council shall notify to the Chief Executive any relationship known to him to exist between himself and a candidate for an appointment of which he is aware. It shall be the duty of the Chief Executive to the authority to report to the authority or appropriate committee any such disclosure made to him.
- Note:** 'Senior officer' refers to an officer paid at Senior Officer grade or above.
- The statutory requirement to appoint on the basis of merit.
 - The Council's Equal Opportunities in Employment Policy.
- (c) Officers and Members are not allowed to canvass for a particular candidate to be appointed. It is, however, in order for Officers and Members to provide references.

13.2 Expected Standard

Employees involved in making appointments should ensure that they are made solely on the basis of merit, and free from any possible allegation of discrimination, however unfounded.

13.3 How To Comply With The Standard

- (a) You are expected to ensure that appointments are made solely on the basis of merit. In any involvement with appointments, you should therefore follow the Council's established Recruitment and Selection Procedures which are designed to assist in fulfilling this responsibility.
- (b) If any attempt is made to canvass you, by an Officer or a Member, you must report the matter immediately to your Service Head (Service Heads report to Directors and Directors to the Chief Executive).
- (c) To avoid any possible accusation of bias, you should not be involved in any appointment where you are related to, or have a close personal relationship outside work with, an applicant.

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- (d) Senior officers are expected to notify their Service Head (Service Heads should notify their Director, and Directors notify the Chief Executive) of any relationship with a candidate for any appointment.
- (e) You should not be involved in decisions relating to discipline, promotion, or pay adjustments for any employee who is a relative or partner, or with whom you have a close personal relationship outside work.

APPENDIX A - POLITICALLY RESTRICTED POSTS

1. The Local Government and Housing Act 1989 and the Local Government Officers (Political Restriction) Regulations 1990, and the Local Government (Politically Restricted Posts) (No2) Regulations 1990 define the posts which are politically restricted and the effect of the restriction. The Restricted Posts are:
 - (a) specified posts such as the head of paid service (the Chief Executive) and the Monitoring Officer (the Corporate Director (Central Services)), chief officers and their deputies. These are restricted without exemption or appeal;
 - (b) all posts which reach or exceed a prescribed remuneration ceiling. These are automatically included on a list which employing authorities are under a duty to prepare unless exemption for individuals are granted;
 - (c) all posts which meet the duties-related criteria for determining a 'sensitive' post, irrespective of remuneration levels, unless the post holder appeals against determination. These posts are defined as those which:
 - (i) give advice on a regular basis to the employing authority, to any committee or sub-committee or another joint committee on which the authority is represented but excluding purely factual information); or
 - (ii) speak on behalf of the authority on a regular basis to journalists and broadcasters.
2. All employees in posts designated as being Politically Restricted will be expected to follow the requirements set out in the Local Government Officers (Political Restrictions) Regulations 1990, which include the following points:
 - (a) Politically Restricted Postholders (PORPs) may not stand as a candidate for election to a local authority, Parliament, or the European Parliament.
 - (b) PORPs may not act as officers of political parties or their branches, committees or sub-committees. They may not participate in the management of a party or branch, or act on behalf of a party or branch with non-party members.
 - (c) PORPs may not canvass on behalf of any party or on behalf of a candidate of any party in local, national or EEC elections.
 - (d) PORPs may not speak in public on behalf of a political party, or publish written or art work on behalf of, or in support of, a political party.
3. The Local Government and Housing Act 1989 also sets out the following measures which must be followed by all employees:
 - (a) All posts (with certain exceptions) will have to be advertised publicly and the qualities sought of the potential employee should be specified.
 - (b) All steps to appoint to a Politically Restricted Post will have to be made by a Committee, Sub-Committee, or a PORP.

ESTABLISHMENT – POLITICALLY RESTRICTED POSTS

Chief Executive

Chief Executive	CE0001
Head of Corporate Strategy	PP0001
Head of Personnel Services	PS0001
Principal Personnel Officer	PS0002
Communications Manager	CE0003

Central Services

Corporate Director (Central Services)	LA0001
Head of Legal Services	LG0001
Senior Solicitor	LG0004
Senior Solicitor	LG0005
Head of Administration Services	AD0001
Principal Democratic Support Officer	AD0003
Elections Officer	AD0070
Senior Democratic Support Officer	AD0006
Senior Democratic Support Officer	AD0007
Head of Information Services	IS0001
Senior User Support Officer	IS0005
Senior User Support Officer	IS0006
Senior User Support Officer	IS0008
Operations Manager	IS0022
Head of Financial Services	FS0001
Internal Audit Manager	FS0005
Principal Auditor	FS0006
Service Support Manager	FS0015
Principal Accountant	FS0016
Corporate Finance Manager	FS0030
Principal Accountant	FS0031
Principal Accountant	FS0032
Chief Revenues Officer	RS0001
Local Taxation and Income Manager	RS0005
Benefits and Customer Services Manager	RS0090

Community Services

Corporate Director (Community Services)	CM0001
Chief Council Housing Officer	CH0001
Principal Management Officer	CH0010
Area Manager	CH0015
Area Manager	CH0020
Area Manager	CH0050
Principal Technical Officer	CH0100
Head of Health and Strategic Housing	EH0003
Manager, Public Health and Safety	EH0005
Team Leader, Environmental Protection	EH0040

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Team Leader, Strategic Housing	EH0100
Principal Officer, Housing Standards	EH0110
Head of City Contract Services	CS0003
Finance and Administration Manager	CC0001
Senior Operations Manager	EN0001
Head of Engineering Services	EG0001
Principal Engineer	EG0003

Regeneration Services

Corporate Director (Regeneration)	TC0001
Neighbourhood Manager	TC0010
Head of Planning and Building Control Services	PL0001
Building Control Officer	PL0010
Development Control Manager	PL0025
Forward Planning Manager	PL0055
Head of Economic Development and Tourism	ED0001
Project Manager – BEST Centre	ED0010
Principal Tourism Officer	TS0002
Senior Marketing Officer	TS0005
Chief Leisure Officer	LS0001
Recreation Services Manager	LS0005
Head of Arts and Events	AE0001
Senior Festivals and Events Officer	TS0010
Head of Property Services	EV0001
Premises Manager	EV0003

APPENDIX B - REGULATIONS GOVERNING THE DISCLOSURE AND CONFIDENTIALITY OF INFORMATION

1. Part 2 of the NJC for Local Government Services, Section 2.1 to 2.2 deals with official conduct.
2. The Local Government Act 1972, s100, deals with the admission of the public and press to local authority committee meetings.
3. The Local Government Planning and Land Act 1980, s2, requires local authorities to publish certain categories of information in accordance with codes of recommended practice and any statutory regulations made by the Secretary of State (s3). This includes (s3(5)) information about the number of employees or the number of any description of their employees.
4. Local Government (Publication of Manpower Information) (England) Regulations 1983 covers English authorities' duties.
5. The Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 requires principal councils to maintain a list, open to public inspection, specifying those powers of the authority which are exercisable from time to time by officers of the authority in pursuance of its duties under statutory powers. Any person having custody of documents to which right of access applies would commit an offence by obstructing that right.
6. The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 make provisions in respect of executive decisions and Key Decisions.

Part 5, Section 2 – Members’ Code of Conduct

**LANCASTER
CITY COUNCIL**



Code of Conduct

Adopted 13 February 2002

PREAMBLE TO THE CODE OF CONDUCT

This Preamble provides an explanatory introduction to the Code of Conduct. It does not form part of the Code of Conduct, and in the event of any conflict between the Preamble and the Code, the Code shall take precedence. It should be noted that only the Code of Conduct itself is enforceable by the Standards Board for England.

Introduction

Members hold office by virtue of the law, and must at all times act within the law. They should make sure that they are aware of the Code of Conduct and other Protocols contained within the Council’s Constitution.

Members have a responsibility to ensure that they comply with the Code of Conduct in all respects. They should regularly review their personal circumstances and intended actions in the context of the Code.

If in doubt, Members should seek advice from the Monitoring Officer or Deputy Monitoring Officer, but the final decision and responsibility on how to act rests with Members themselves.

Members should not do anything in their capacity as councillors, which they could not justify to the public or could not justify by law. Members’ conduct and what the public believe about their conduct will affect the reputation and credibility of Members and the Council as a whole.

It is not enough to avoid impropriety; perception is also important. Members should at all times avoid any occasion for suspicion and any appearance of improper conduct.

General Principles Governing Conduct

The Council has adopted the Government’s Model Code of Conduct, published under the Local Government Act 2000.

The Local Government Act 2000 requires that the Model Code of Conduct must be consistent with the Principles for the time being specified by the Secretary of State for governing the conduct of Members. The current Principles were specified in the Local Authorities (General Principles) Order 2001, and are as follows:

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Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Whilst these Principles provide a useful background to the Code of Conduct, it should be noted that one Principle should not be construed as being any more important than another. The Standards Board for England has also emphasised that no duty arises directly out of any Principle. The only duties are those enshrined in the Code of Conduct, and only those duties are enforceable by the Standards Board for England.

PART 1

GENERAL PROVISIONS

Scope

- 1 (1) A member must observe the Authority's Code of Conduct whenever they –
- (a) conducts the business of the Authority;
 - (b) conducts the business of the office to which they has been elected or appointed;
or
 - (c) acts as a representative of the Authority,
- and references to a member's official capacity shall be construed accordingly.
- (2) The Authority's Code of Conduct shall not, apart from paragraphs 4 and 5(a) below, have effect in relation to the activities of a member undertaken other than in an official capacity.
- (3) Where a member acts as a representative of the Authority –
- (a) on another relevant authority, they must, when acting for that other authority, comply with that other authority's Code of Conduct; or
 - (b) on any other body, they must, when acting for that other body, comply with the authority's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- (4) In this Code, "member" includes a co-opted member of the Authority.

General Obligations

- 2 A member must –
- (a) promote equality by not discriminating unlawfully against any person;
 - (b) treat others with respect; and
 - (c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

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CONSTITUTION

- 3 A member must not –
- (a) disclose information given to him/her in confidence by anyone, or information acquired which they believes is of a confidential nature, without the consent of a person authorised to give it, or unless they is required by law to do so; nor
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
- 4 A member must not in his/her official capacity, or any other circumstance, conduct himself/herself in a manner which could reasonably be regarded as bringing his/her office or the Authority into disrepute.
- 5 A member –
- (a) must not in his/her official capacity, or any other circumstance, use his/her position as a member improperly to confer on or secure for himself/herself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of the Authority –
 - (i) act in accordance with the Authority's requirements; and
 - (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Authority or of the office to which the member has been elected or appointed.
- 6 (1) A member must when reaching decisions –
- (a) have regard to any relevant advice provided to him/her by –
 - (i) the Authority's Chief Finance Officer acting in pursuance of his/her duties under Section 114 of the Local Government Finance Act 1988; and
 - (ii) the Authority's Monitoring Officer acting in pursuance of his/her duties under Section 5(2) of the Local Government and Housing Act 1989; and
 - (b) give the reasons for those decisions in accordance with the Authority's and any statutory requirements in relation to the taking of an executive decision.
- (2) In sub-paragraph (1)(b) above and in paragraph 9(2) below, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.
- 7 A member must, if they becomes aware of any conduct by another member which they reasonably believes involves a failure to comply with the Authority's Code of Conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him/her to do so.

PART 2

INTERESTS

Personal Interests

- 8 (1) A member must regard himself/herself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 14 and 15 below, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers or inhabitants of the Authority's area, the well-being or financial position of himself, a relative or a friend or –
- (a) any employment or business carried on by such persons;
 - (b) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (d) any body listed in sub-paragraphs (a) to (e) of paragraph 15 below in which such persons hold a position of general control or management.
- (2) In this paragraph –
- (a) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and
 - (b) “partner” in sub-paragraph (2)(a) above means a member of a couple who live together.

Disclosure of Personal Interests

- 9 (1) A member with a personal interest in a matter who attends a meeting of the Authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Subject to paragraph 12(1)(b) below, a member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.
- 10 (1) Subject to sub-paragraph (2) below, a member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

- (2) A member may regard himself/herself as not having a prejudicial interest in a matter if that matter relates to –
- (a) another relevant authority of which they is a member;
 - (b) another public authority in which they holds a position of general control or management;
 - (c) a body to which they has been appointed or nominated by the Authority as its representative;
 - (d) the housing functions of the Authority where the member holds a tenancy or lease with a relevant authority, provided that they does not have arrears of rent with that relevant authority of more than two months, and provided that those functions do not relate particularly to the member's tenancy or lease;
 - (e) the functions of the Authority in respect of school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends;
 - (f) the functions of the Authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority; and
 - (g) the functions of the Authority in respect of an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989.

Overview and Scrutiny Committees

- 11 (1) For the purposes of this Part, a member must if they is involved in the consideration of a matter at a meeting of an overview and scrutiny committee of the Authority or a sub-committee of such a committee, regard himself/herself as having a personal and a prejudicial interest if that consideration relates to a decision made, or action taken, by another of the Authority's
- (a) committees or sub-committees; or
 - (b) joint committees or joint sub-committees,
- of which they may also be a member.
- (2) But sub-paragraph (1) above shall not apply if that member attends that meeting for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

Participation in Relation to Disclosed Interests

- 12 (1) Subject to sub-paragraph (2) below, a member with a prejudicial interest in any matter must –
- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless they has obtained a dispensation from the Authority's Standards Committee;

- (b) not exercise executive functions in relation to that matter; and
 - (c) not seek improperly to influence a decision about that matter.
- (2) A member with a prejudicial interest may, unless that interest is of a financial nature, and unless it is an interest of the type described in paragraph 11 above, participate in a meeting of the Authority's –
- (a) overview and scrutiny committees and
 - (b) joint or area committees,
- to the extent that such committees are not exercising functions of the Authority or its executive.
- 13 For the purposes of this Part, "meeting" means any meeting of –
- (b) the Authority;
 - (c) the executive of the Authority; or
 - (d) any of the Authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees.

PART 3

THE REGISTER OF MEMBERS' INTERESTS

Registration of Financial and Other Interests

- 14 Within 28 days of his/her election or appointment to office (if that is later) a member must register his/her financial interests in the Authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the Authority's monitoring officer of –
- (a) any employment or business carried on by him/her;
 - (b) the name of the person who employs or has appointed him/her, the name of any firm in which they is a partner, and the name of any company for which they is a remunerated director;
 - (c) the name of any person, other than a relevant authority, who has made a payment to him/her in respect of his/her election or any expenses incurred by him/her in carrying out his duties;
 - (d) the name of any corporate body which has a place of business or land in the Authority's area, and in which the member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
 - (e) a description of any contract for goods, services or works made between the Authority and himself/herself or a firm in which they is a partner, a company of which they is a remunerated director, or a body of the description specified in sub-paragraph (d) above;

- (f) the address or other description (sufficient to identify the location) of any land in which they has a beneficial interest and which is in the area of the Authority;
 - (g) the address or other description (sufficient to identify the location) of any land where the landlord is the Authority and the tenant is a firm in which they is a partner, a company of which they is a remunerated director, or a body of the description specified in sub-paragraph (d) above; and
 - (h) the address or other description (sufficient to identify the location) of any land in the Authority's area in which they has a licence (alone or jointly with others) to occupy for 28 days or longer.
- 15 Within 28 days of his/her election or appointment to office (if that is later), a member must register his/her other interests in the Authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the Authority's monitoring officer of his/her membership of or position of general control or management in any –
- (a) body to which they has been appointed or nominated by the Authority as its representative;
 - (b) public authority or body exercising functions of a public nature;
 - (c) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (d) body whose principal purposes include the influence of public opinion or policy; and
 - (e) trade union or professional association.
- 16 A member must within 28 days of becoming aware of any change to the interests specified under paragraphs 14 and 15 above, provide written notification to the Authority's monitoring officer of that change.

Registration of Gifts and Hospitality

- 17 A member must within 28 days of receiving any gift or hospitality over the value of £25, provide written notification to the Authority's monitoring officer of the existence and nature of that gift or hospitality.

PART 5, SECTION 3

PROTOCOL ON PUBLICITY FOR ALLEGATIONS OF BREACH OF CODE OF CONDUCT MADE TO THE STANDARDS BOARD

Introduction

The purpose of this Protocol is to provide guidance to Members as to their conduct when referring an alleged breach of the Code of Conduct to the Standards Board for England, or when they are the subject of such an allegation, or are aware of such an allegation.

Background

There is no statutory mechanism preventing those making an allegation to the Standards Board (or those the subject of such an allegation) making the nature of the allegation known to the press and public, or making public comment on the allegation. Any such comments would be subject to the general law of defamation, and a Member could seek a court injunction to prevent the publication of defamatory material.

The Standard Board's position is that it does not comment on the details of allegations or investigations into those allegations whilst an investigation is ongoing. Where information is already in the public domain the Board will confirm whether or not the information is accurate.

Guidance to Members

When a Member has made or is considering making a complaint to the Standards Board alleging a breach of the Code of Conduct, the Member should not make the complaint or allegation known to the public in any forum, whether at a meeting that is open to the public or through the press or media. No Member who is aware of a complaint should make any public comment on it, and the matter should not be the subject of discussion or debate within the Council.

Likewise, the Member who is the subject of the complaint or allegation should not make any public or press comment on it.

This guidance applies until the allegation has been resolved, whether by a decision of the Standards Board not to investigate, or by an investigation where an outcome is achieved, or, if the matter is subsequently referred to the Adjudication Panel or to the Council's Standards Committee, until that process is complete.

This Protocol does not bind members of the public, and accordingly where a complaint is made to the Standards Board by a member of the public, this may become known to the public through the press or some other medium.

In these circumstances, this Guidance does not preclude the Member who is the subject of the complaint from making a public comment, although it is recommended that the Member should carefully consider the appropriateness of so doing. Until the complaint is resolved (as described above) no other Member who is aware of the complaint should make any public comment on it, and the matter should not be the subject of discussion or debate within the Council.

PART 5, SECTION 4 - PROTOCOL ON PLANNING PROCEDURE

1 Introduction

The purpose of this protocol is to provide Members with guidance regarding their role in determining planning applications, in particular, when interacting with applicants, objectors or developers. Ward members, who are not members of the Planning Regulatory Committee but who want to address the Committee, also require guidance on interaction over their contact with applicants developers and objectors.

The protocol is designed to offer that guidance and help Members understand their role and the responsibilities associated with that role.

In addition, District Audit has also raised the need for a protocol on planning in their document, "Probity in Planning".

2 Natural Justice

These principles apply throughout public administration. They are fundamental principles of administrative law and should be adhered to when determining any planning application.

The two principles of Natural Justice are :-

- 1 The rule against bias
- 2 The duty to act fairly/duty to hear both sides or the other side.

3 The Rule Against Bias

The first principle means that no Member should remain and be a party to a decision which affects his or her own interests. This is largely the process by which Members declare interests.

In addition to the common law rule against bias, Members must be mindful of the provisions of the Council's Code of Conduct with regard to personal and prejudicial interests, referred to below.

If Members in a Committee Meeting are in any doubt about the interest they are advised to err on the side of caution and leave the chamber. If a member does not take this action it can lead to criticism or a challenge to the decision on the basis that a Member with an interest remained within the Council Chamber and tainted the integrity of the decision.

4 The duty to act fairly/hear both sides or the other side

Both sides should have an opportunity to put their view forward and the decision making body must consider both sides - applicant and objector - before coming to its decision. The Member's mind should not be closed until the final decision is made. A Member's mind will be closed if he or she has already come to a decision on an application prior to entering the Council Chamber.

5 Example of Maladministration

The Local Ombudsman recently made a finding of maladministration against a Merseyside Council because a Member failed to declare an interest and leave the meeting. The

Member had a house that was situated near to and affected by a planning proposal. The Member did not declare an interest and remained in the Chamber and voted on the application.

It is important to the integrity of the Planning process and to open and honest governance that justice must not only be done to the planning application – but also that it is seen to be done, thereby giving the public confidence in the system.

6 Party Politics

A Member must not blindly follow the recommendations of their political party. A decision on a particular planning application should not be dictated to by party politics. Party whips should never be used. The Member is part of the decision making body. As far as planning applications are concerned the decision making body is the Planning Regulatory Committee. That Committee sits in a quasi-judicial manner and each decision is made on its own merits, within the Development Plan framework, supported by legislation, government advice and other Council land use policies. Therefore each decision has to be made on the information put before the Committee and should take into account the development plan, the impact of the individual development and any individual site characteristics – not party politics.

7 Allegations of Bias

As a Member of the Planning Regulatory Committee the time for decision making is after the Member(s) has/have heard all relevant considerations i.e. after the application has been presented to the Members in the Committee meeting and when the presentation of the application is completed. Therefore, a decision should not be made before the agenda is sent out, at a site visit or immediately before the meeting begins. If a Member has made his or her mind up before the application is fully presented then this renders the application open to challenge. This would be on the basis that the application was predetermined, was not considered fairly and that the Member's conduct showed bias. To predetermine an application flies in the face of the principle of the rule 'to hear both sides'.

8 Media Exposure

A Member should never make any public declaration on an application until the application has been determined. If a Member makes an announcement (that is one sided) prior to the application being determined then that Member is at risk from an allegation of bias i.e. they have not kept their mind open until all matters are before them. In these circumstances the Member may be advised to refrain from taking part in the decision making process to ensure the decision is not tainted.

9 Contact by an Applicant Agent Developer or Objector

It is inevitable that Planning Regulatory Committee Members will be approached frequently by a variety of people during the planning process. It is therefore important that Members are clear on the nature of the advice and the comments that they give.

MEMBERS SHOULD AVOID GIVING ANY COMMITMENT OR THE IMPRESSION OF ANY COMMITMENT OR VIEW that is held regarding any particular planning application yet to be determined or any matter that may result in the submission of a planning application. It is inappropriate for a Member to meet with the Applicant or Developer to discuss the proposals. Instead they should be directed to the Chief Planning Officer and his staff. Equally, any Member requiring further information about the application should contact the Chief Planning Officer and his staff.

If a meeting or telephone call does takes place then Members are advised to avoid comments which infer predetermination such as:

- 'I am completely against any development there'
- 'I am all for any kind of economic regeneration'
- 'The developer X normally builds to a high standard'

In the very rare circumstances where a meeting does take place between a Member and the Applicants or Developers it essential that an officer is present and the meeting properly minuted. The Audit Commission states in these circumstances "all meetings should be attended by officers, fully minuted and reported to Committee in order to ensure transparency". Therefore those minutes should be reported to the Planning Regulatory Committee prior to any decision being made.

10 **Approach by a Constituent**

If a constituent approaches a Member about an application Members can give advice on planning procedure rules and policy so far as they are able but it is always advisable to direct the constituent to staff of the Planning Service in any event. When speaking to constituents Members must not give any impression of any commitment to the application itself

11 **Approach by a Non-Constituent**

If a non-constituent approaches a Member, Members can advise the person on planning procedure rules and policy as far as they are able or alternatively ask them to contact their own Ward Member or the Chief Planning Officer and his staff.

12 **Disclosure of Information**

It is important that Members are clear on what information is a matter of public record and what information is not. Details contained within the planning application are open to the public and the planning process and planning policies are all within the public domain. However, informal observations of the Planning staff will not be information available to the public. If a Member wishes to rely on the observations or comments of the officer then the Member must ask the officer if the information is of a public or confidential nature. If the Member intends to refer such information to a member of the public i.e. not a Council Member, they must make this clear to the officer.

13 **Hospitality Offered to Members**

It is advisable in all circumstances to simply refuse any hospitality. To accept creates the risk that there has been undue influence on the planning process. In the rare event that the hospitality is accepted it must be declared to the Council in accordance with paragraph 17 of the Council's Code of Conduct.

14 **Lobbying of the Planning Regulatory Committee by other Members**

The same principles apply. Members should not give an impression of any commitment or view on the application itself and Planning Regulatory Committee Members must consider all matters before forming a view. If the lobbying Member is an applicant the Committee Member must critically assess their relationship to the Applicant-Member. The test is to ask yourself 'is the relationship such that a reasonable person would consider that remaining in the Planning Regulatory Committee meeting when the decision is made would give the impression of bias'. Simply being a member of the same political party does not necessarily equate to a personal or prejudicial interest but Members must ask themselves

about their relationship, e.g. Are they friends outside the political arena? Do they socialise with each other? . Members are advised to err on the side of caution.

15 Social Contact

Members of the Planning Regulatory Committee should minimise their direct social contact with known Developers and Agents, especially when developments are contemplated or applications are being proposed or when controversial decisions are likely to be needed.

16 Site Visits – Informal or Formal

Again, if Members of the Planning Regulatory Committee, whether or not on a site visit, enter any premises which –

- are the subject of/ affected by a planning application or
- are known to be likely to become subject to or affected by a planning application

for any purpose in connection with such an application/proposed application, the Member should be careful to use the inspection purely as a fact-finding exercise and not express any opinion on the merits of the application. Members must not give any kind of indication of what their views of the application are at this stage as they would be at risk of predetermining the issue.

17 Purpose of Formal Visits

The purpose of a Committee site visit is to give Members the opportunity to see the prospective development site and to see it in context, in relation to the surrounding areas and the neighbouring uses. The Planning Officer will normally identify the site and make a short factual presentation explaining the proposed development and perhaps highlighting issues which initially prompted the site visit. The Planning Officer will answer, where possible, questions raised by the Committee.

Site visit are not intended to pre-empt the debate. Questions should therefore relate to matters of factual information about the site, the development and the surrounding area rather than a detailed debate regarding the principle or merits of the proposal. Any detailed debate regarding the above should await the formal Committee meeting when all Members of the Committee and members of the public who attend can hear the arguments in a proper setting.

18 Public Attendance at Formal Site Visits

Members will often be met by numbers of local residents at a site visit as they are often high profile cases which are under consideration. It is important that the Planning Officer or the Committee Clerk explains clearly the purpose of the site visit to residents before the site visit commences. Members of the public can listen to the officers' presentation but should not join in any subsequent discussion. Public views or objections will be fully presented or reported at the Committee meeting and should properly form part of the overall debate and discussion at that time.

Members should avoid getting into individual dialogue with local residents, although it is appreciated this can be difficult to avoid. The Chairman can invite a spokesperson for the residents to answer any specific questions Members may have but this should not become a general debate about the proposal. If there is a request to visit the site from a particular position or location this can be undertaken at the Chairman's discretion. If it is agreed, all Members should accompany the Chairman if possible.

The applicant or his representative will also be invited to attend the site visit. They is present simply to answer any questions the Committee Members may have but should not address the Members on the general merits of the case. Again the Planning Officer or Chairman should explain this situation to the applicant or representative if necessary.

None of the above text on site visits is intended to stifle debate or prevent local residents from having their say. The proper place for such a debate is however at the Committee meeting when neighbour/local views will be properly reported and a proper discussion in a public forum can take place.

19 **Ward Members Speaking at Planning Regulatory Committee who are Not Members of the Planning Regulatory Committee – Contact by the Applicant, Developer or Objector**

When a Ward Member speaks at a Committee it is important that they make it clear whose views they are expressing. Are they speaking for themselves only? Are they speaking on behalf of their Ward? Are they speaking on behalf of a group of residents? An important difference between Planning Members and Ward Councillors who are not Members of the Planning Regulatory Committee is that Ward Members are permitted to express a view prior to entering the Council Chamber. Also, a Ward Member can inform other Members of their own view. If they are asked to meet with a party who has an interest in an application it should be made clear to that party that the Ward Member cannot lobby Members of the Planning Regulatory Committee – they can inform the Members of their concerns etc but they cannot lobby.

If the applicant/objector/3rd party asks for information Members should advise them to contact the Planning Service staff. The Ward Member can comment on how they would like the decision to be determined but must not give any impression of interfering with the normal democratic process. Comments like 'I will have a quiet word with the Chairman' 'the Group will all vote together' or 'it will be sorted' are unacceptable. They infer predetermination and interference, which at the very least is against an open and transparent planning system.

Instead the Member should make it quite clear that they are able to express an opinion to the Committee but the final decision will be made by the Members when they have considered all matters including the Local Development Plan.

When a non Planning Regulatory Committee Member addresses the Committee, it is advisable that they disclose to the Committee any contact they have had with the applicant and/or agent and/or interested party. For example if a Ward Member meets with a Developer and is in favour of an application they should state 'I am the Ward Member and I am here to represent my own views on this matter. I have spoken to the Developer and I have looked at the plans in detail. I am for the application and consider the benefits are ...'. Or 'I am the local Ward Councillor and I am here to represent the views of what I consider is the majority of the residents of my Ward. I have had numerous telephone calls and letters complaining about this. I have met with local resident groups and I am unhappy with the proposal before Members because ...'

20 **The Public Participation Process**

With the introduction of the public participation process members of the public now have the opportunity to address the Planning Regulatory Committee. Each individual has 3 minutes to speak. Ideally the person would refer only to planning issues. However realistically speaking this is unlikely to occur and in practice they may refer to non-planning and land use matters.

Planning Regulatory Committee Members need to sift through such presentations and concentrate on the land use principles, distinguishing between issues that are and are not relevant to the planning decision. Issues that are not planning matters need to be dismissed or given very little weight, while land use issues should be taken into account and given great weight.

Personal circumstances and financial details are rarely, if ever, determining issues. Members have to give proper weight to the Development Plan and other material land use considerations.

21 Declarations of Interest and Leaving the Chamber

Under the Council's Code of Conduct, where a decision would affect the well-being or financial position of a Member, or a relative or friend of theirs, the Member must declare a personal interest. The word "friend" is not defined in the Code, but implies more than a passing acquaintance or knowledge.

Where a Member has a personal interest as set out in the Code of Conduct, they must give careful consideration as to whether that interest is also a prejudicial interest (that is, one which a member of the public with knowledge of the facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest). In considering whether the interest is prejudicial, Members are advised to err on the side of caution. However, simply knowing the Applicant does not equate to a prejudicial interest. In the district of Lancaster and Morecambe, it is highly likely that a Member will have some knowledge of an Applicant at some time.

If the personal interest is not a prejudicial interest, the interest must be disclosed to the meeting.

Where a Member has a personal interest which is also a prejudicial interest under the Code of Conduct, they must leave the chamber – they are not permitted to return to the public gallery for the debate and they should not be seen by other Members when they are making the decision. This is a requirement of the Code of Conduct. If a Member who had declared an interest was present or could be seen to watch the proceedings, this could in any event be sufficient to taint the process.

Because of the quasi-judicial, regulatory nature of the work of the Planning Regulatory Committee, and the requirements of natural justice, Members are advised to err on the side of caution when considering the matter of interests.

Dispensations from the Standards Committee are available in limited circumstances, where the existence of prejudicial interests would mean that the political balance principles could not otherwise be complied with.

22 The Decision Itself

In accordance with s54A of the Town and Country Planning Act 1990, as amended, a planning application made under the Planning Acts shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Material considerations are anything that relates to the use and the development of land. "Material considerations must be genuine planning considerations, i.e. they must be related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest." PPG1 para. 50. 'In the public interest' does not mean determining planning applications on the view of the local residents. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that

opposition or support is founded upon valid planning reasons which can be substantiated” para. 60 of PPG1.

If there is public opinion against an application then Members must ask themselves “are the objections based on planning grounds?” and if they are “is there evidence to support them?” If the answer to one or both of these questions is 'no', then Members should not permit the objections to be determine the outcome.

23 **Code of Conduct**

This guide is ancillary to the Council’s Code of Conduct and is designed to help Members understand their role in the Planning process. Its production is recommended by District Audit (‘Probity in Planning’).

24 **Enforcement of the Protocol**

Members need to be aware that this Protocol is for guidance. The breach of its terms will not necessarily result in the decision being invalidated, but may well lead to a decision being challenged.

A breach of the Council’s Code of Conduct may lead to a reference to the national Standards Board. A breach of this Protocol which is not a breach of the Council’s Code of Conduct Code could not be referred to the Standards Board, but may be investigated by the Monitoring Officer and subsequently reported to the Council’s own Standards Committee.

If Members have any concerns about the above please contact the Head of Legal Services and/or the Head of Planning Services.

Part 5, Section 5 Protocol and Member/Officer Relations

1. INTRODUCTION

- 1.1 The purpose of this protocol is to guide Members and Officers on their relations with one another. The document has been adopted to reflect the specific arrangements in Lancaster City Council, and is based on the Council's new Constitution and the anticipation of how these new arrangements will operate.
- 1.2 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise.

2. ROLE OF MEMBERS AND OFFICERS

- 2.1 The protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.
- 2.2 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council and to carry out the Council's work under the direction and control of the Council and Cabinet, their Committees, and also Overview and Scrutiny.
- 2.3 Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers."
- 2.4 A relevant extract from the current Members' Code of Conduct is re-produced below:

"2 A member must –

- (d) promote equality by not discriminating unlawfully against any person;
- (e) treat others with respect; and
- (f) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

6 (1) A member must when reaching decisions –

- (c) have regard to any relevant advice provided to him/her by –
 - (iii) the Authority's Chief Finance Officer acting in pursuance of his/her duties under Section 114 of the Local Government Finance Act 1988; and
 - (iv) the Authority's Monitoring Officer acting in pursuance of his/her duties under Section 5(2) of the Local Government and Housing Act 1989;"

Lancaster City Council
CONSTITUTION

2.5 The City Council's new Constitution sets out the clear distinction between the roles of Members and Officers:

- The Council is responsible for setting policies, service and performance targets and the Cabinet, Regulatory Committees and Overview and Scrutiny for ensuring that they are delivered. They are accountable to the electorate for the delivery of policies and services.
- Officers are accountable to the Cabinet, Overview and Scrutiny and Committees for the implementation of policies and the delivery of services. Members should not get involved in the day to day management of services. Equally, Officers should not get involved in politics.

Officers are responsible for advising Council, Cabinet, Overview and Scrutiny and Committees on policy and its implementation. They have a duty to give impartial advice to all Members and are accountable to the whole Council. Exceptions to this are set out elsewhere in this Protocol.

2.6 The guidelines set out broad boundaries between Members and Officers. There is an acceptance that Officers are responsible for the implementation of policies and delivery of services in the manner that they consider is most appropriate given their managerial and professional expertise. Members would not be expected to be involved in the detail of implementation, but can expect reports on progress, and in certain circumstances, at Overview and Scrutiny meetings, can require Chief Officers to account for their decisions.

2.7 It is appropriate, however, for Members to propose initiatives and ideas about how things can be done better. It is essential that existing ways of doing things are challenged and reviewed. This needs to be done in a professional and constructive environment. The Constitution sets out the procedures for both the Cabinet and Overview and Scrutiny to review existing policies and bring forward new policy initiatives. The procedural notes also set out the process for Officer involvement with the Cabinet, the Regulatory Committees and the Overview and Scrutiny.

3. OFFICER ADVICE TO GROUPS OF MEMBERS

3.1 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example the Council's four-month Forward Plan will identify the Key Decisions that the Cabinet will be considering in that time. Individual Members and/or groups of Members may properly call upon Officers to support and provide factual advice to their deliberations. Briefing of political groups should only be undertaken by Chief Officers or with the approval of the Chief Officer.

3.2 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of a 'political' nature.
- (b) Similarly, where Officers provide information and advice to a group of Members meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to Committees the Cabinet or Overview and Scrutiny meeting when the matter in question is considered.

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3.3 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group of Members.

3.4 Any particular cases of difficulty or uncertainty in this area of Officer advice to groups of Members should be raised with the Chief Executive or, in his absence, the Council's Monitoring Officer, who will discuss them with the relevant Group Leader(s).

4. OFFICER/CABINET RELATIONSHIPS

4.1 It is clearly important that there should be a close working relationship between Cabinet Members and Committees including their Chairmen and the relevant Chief Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an Officer's ability to deal impartially with other Members.

4.2 Whilst the Cabinet Leader and Committee Chairs will routinely be consulted as part of the process of drawing up agenda items for a forthcoming meeting, it must be recognised that in some situations an Officer will consider it their duty to submit a report on a particular matter. In these circumstances, an Officer will always be fully responsible for the contents of any report submitted in his/her name. Similarly, a Member will also be fully responsible for that part of any report submitted in his/her name. Any issues arising between a Member and an Officer in this area should be referred to the Chief Executive for his resolution. Where individual Members wish to place an item on a Cabinet agenda, they should notify the Chief Executive in accordance with Part 4 Section 4 of the Constitution.

4.3 In relation to action between meetings, it is important to remember that the Council's Constitution allows not only for decisions (relating to the discharge of any of the Council's functions) to be taken by the Cabinet, other Committees of Council or an Officer, but also allows for an individual Cabinet Member to take a non-key decision.

4.4 Finally, it must be remembered that Officers within a Service are accountable to their Corporate Director and/or Service Head and that whilst Officers should always seek to assist any Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Corporate Director or Service Head. Officers should also refer to Part 3 (Responsibility for Functions) and Part 5, Section 2 (Officers' Code of Conduct) in the Council's new Constitution for clarification about the bounds of their responsibility.

5. SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

5.1 Previously, the only basis on which the Council could lawfully provide support services (e.g. stationery, typing, printing, e-mail, internet, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. However the new Code of Conduct does allow limited private use of Council resources by Members provided that when using or authorising the use by others of the resources they must -

- (i) act in accordance with the Authority's requirements; and
- (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Authority or of the office to which the Member has been elected or appointed.

Any uncertainty about compliance with these requirements should be referred to the Council's Monitoring Officer for determination.

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5.2 The Members' Services Section in Administration Services should be the first point of contact in all aspects relating to Member support.

6. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

6.1 Members are free to approach the appropriate Service to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should be directed to the Service Head or nominated representative. If Members wish to visit offices, they should contact the Service Head to make arrangements whenever possible.

6.2 With respect to the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law. Guidance is also given in Part 4 Section 2 of the new Constitution.

6.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Cabinet, Regulatory Committee or Overview and Scrutiny meeting. This right applies irrespective of whether the Member is a Member of the Cabinet, Regulatory Committee or Overview and Scrutiny concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items or part of items which may appear on the 'exempt' agenda for meetings. The items in question are those which contain exempt information.

6.4 The common law right of Members is much broader and is based on the principle that any Member has a *prima facie* right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the "need to know" principle.

6.5 The exercise of this common law right depends, therefore, upon the Member's ability to demonstrate that they has the necessary "need to know". In this respect a Member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". The particular Service Head who holds the document in question must initially determine this question. In the event of dispute, the question falls to be determined by the Council's Monitoring Officer.

6.6 In some circumstances (eg a Cabinet Member wishing to inspect documents relating to the functions of the Cabinet) a Member's "need to know" will normally be presumed. In other circumstances (eg a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.

6.7 Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a "need to know" and, therefore, a right to inspect, a document which forms part of the internal workings of another party group.

6.8 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

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- 6.9 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, ie in connection with proper performance of the Member's duties as a Member of the Council. This point is emphasised in the Members' Code of Conduct in the following terms:

"A member must not disclose information given to him/her in confidence by anyone, or information acquired which they believes is of a confidential nature, without the consent of a person authorised to give it, or unless they is required by law to do so."

7. CORRESPONDENCE

- 7.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.
- 7.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (eg representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member.

8. INVOLVEMENT OF WARD COUNCILLORS

- 8.1 Whenever a public meeting is organised either by the Council or where the Council has been invited to attend, to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. In addition, whenever significant Council organised events or works are taking place in a locality, all the Members representing the ward or wards should as a matter of course be notified.

9. MEETINGS WITH THIRD PARTIES

On occasions, Members may be approached by individuals or companies who have proposals affecting the area or functions of the Council, and which they wish to discuss with Members. Members are reminded that, as individual Members, they cannot commit the Council to any contract or other agreement or course of action. Members are advised to make this clear to any third party with which they may have contact. Should Members be asked to attend a meeting with third parties, they are recommended to arrange for the meeting to take place at Council offices and with a relevant officer present. This will enable the officer to explain to the third party the proper decision making process, and will protect Members against any subsequent claim by the third party. Normal routine activities are not intended to be subject to this recommendation.

10. MEDIA RELATIONS

- 10.1 The Council has agreed Press and Media Guidelines which set out the Council's procedures for dealing with the press and media. The guidelines are subject to review from time to time.

11. ARBITRATION

- 11.1 The Protocol is intended to act as a guide for both Members and Officers. The Corporate Director and/or Service Head should deal with difficulties that arise in the first instance with the Member(s) concerned. The Monitoring Officer and then the Chief Executive should then consider any continuing difficulties.
- 11.2 Serious difficulties or breakdowns in relations that cannot be resolved through the above route should be referred to the Standards Committee for determination in accordance with the protocol. This will be very much a last resort. Every effort should be made to resolve difficulties at any early stage.

12. REVIEW OF PROTOCOL

- 12.1 The protocol is intended to provide Members and Officers with guidelines to determine their roles and their relations with each other.
- 11.2 It is intended to be a “live” document and will be reviewed from time to time to reflect changing circumstances. The Standards Committee is the lead Committee.

Members or Officers with queries about the Protocol should contact the Council’s Monitoring Officer.

PART 5, SECTION 6, PRESS AND MEDIA GUIDELINES

Aims and Objectives

The long-term aim of the Council's Communications Strategy is to build and maintain a positive reputation for Lancaster City Council in the eyes of the public, its Councillors and employees as well as key partners in the public, private and voluntary sectors.

In order to achieve this aim a key area of our focus is on the local media.

Research carried out by MVA in the Lancaster District in 2002 found:

- 71% of residents cited the local press as the main way in which they currently received information about the Council
- 22% cited local radio.

When asked how they would like to receive information about the Council the local media was the most popular choice, followed closely by Council leaflets through the door and a Council newspaper

The media therefore plays a huge role in informing residents about what the council does and how it spends their money. In return, it's important the city council communicates effectively with this key provider of public information.

In doing so our objectives are to:-

- enable the Council to be one which is open, accountable, accessible and which listens;
- give information about the Council's policies and services and the democratic process so people feel more informed about the work of the Council;
- build up the Council's role as community leader and advocate for the community;
- handle negative issues clearly and decisively. Where we feel criticism of the Council is unfair we should use opportunities available to explain our case, either to the editors or to the readers/listeners. In cases where we are wrong we should hold our hands up and move the story forwards eg explain how we have already addressed the issues;
- improve the employees' view of the Council. Many employees base their views of the Council on what they read in the paper. We recognise our staff can be our best ambassadors. Therefore, in addition to improvements in internal communications, it is vital that all external communication regarding the Council bears this factor in mind.

Of course, this will require input on various fronts and ties in with the wider Communications Strategy as well as the Consultation Strategy

This document sets out guidelines for:-

- 1. Dealing with media enquiries**
- 2. Generating media interest**
- 3. Developing relationships with the local media**
- 4. Managing negative issues**
- 5. Monitoring and evaluating the media coverage of the Council**
- 6. Providing media support to our partners**

1. Co-ordinating Media Enquiries

The Council should ensure that local citizens are informed about the Council's policies, services and decisions. It must be open and transparent in its dealings with the press.

The City Council receives approximately 1,200 enquiries from the media every year and issues approximately 500 press releases. It also organises dozens of press launches and photo opportunities. In order to co-ordinate and manage all of this activity it is important that it is all channelled through a central point, the Communications Office.

Media Enquiries - Officers

The Communications Officer, with support from the Communications Manager, will act as one-stop shop for all media enquiries. This will involve taking the enquiry, working with relevant Officers/Councillors to agree a response and then the Communications Team passing that response back to the relevant journalist.

Occasionally, the Communications Team will ask an Officer to talk directly with the media, for example to explain a technical issue or to give an in-depth background for a feature.

If you are approached for a comment by the media, other than on an occasion agreed with the Communications Team, please refer the journalist to the Communications Officer.

Media Enquiries – Councillors

Where the journalist requires a quote from a politician, the Communications Officer will inform them of the appropriate Cabinet Member/Overview and Scrutiny Board Chairman/Task Group Chairman or Committee Chairman

2. Generating Media Interest

There are a number of ways of generating media interest – press releases, press launches, photo opportunities etc. The most commonly used form is the press release

i) Press Releases

In co-operation with the Communications Officer, Services should adopt a proactive approach to issuing service-specific press releases.

Press Release writers should follow the Press Release Writing Guide available on the intranet.

Other than in exceptional circumstances all press releases should include just one quote (see below for guidance on who to quote).

Other than in exceptional circumstances all releases should be emailed to the Communications Officer who will place them on the corporate template and issue them to the relevant media via the Newsflash Media Monitoring system. The Communications Officer will also place them on the website and intranet.

All press releases, and any other form of communication with the media, should be cleared with the Communications Officer and, if appropriate, relevant Cabinet Members. In the case of matters relating to Overview and Scrutiny Function, Planning, Licensing and the Standards Committee, they should be cleared with the Communications Officer and relevant Chair.

All media enquiries relating to that press release should be channelled through the Communications Office who will work with the appropriate Officer to put together an agreed response.

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Press Releases Ahead of Cabinet/Committee/Council Consideration

The media "pick up" many stories from agendas and reports ahead of meetings. Whilst it would be inappropriate to offer a "comment" by the Council ahead of quasi judicial meetings, such as Licensing and Planning, it is appropriate for:

- A Cabinet member who has submitted a report for the public part of a Cabinet meeting to issue a release or statement ahead of that meeting as long as it does not prejudice the decision
- For the chair of Overview and Scrutiny Committee, Budget and Performance Panel and Task Groups to issue a release or statement ahead of one of these meetings as long as it does not prejudice the decision

However these comments should be limited to providing information rather than anticipating an outcome or expressing a view as to a preferred outcome from the meeting.

It is also appropriate for Officers to issue a statement/s outlining a summary of a report. In this way reporters will be more likely to use the readily provided Council statement which provides a brief and accurate summary of a report or clarification of an issue.

Of course, there is no reason why a political group or political representative should not make a comment, should they wish to do so which will not be on Council headed paper.

The Communications Officer and Service Heads will liaise before agendas and reports are issued to the media to discuss whether such an approach is required regarding specific items

Press Releases Following Cabinet/Overview and Scrutiny Committee/Task Group/Committee & Council Meetings

When relevant Corporate Directors, Service Heads, appropriate Cabinet members, chairs of Overview and Scrutiny, Budget and Performance, Task Groups and Committees and the Communications Officer will liaise at the report deadline stage to discuss issuing positive press releases following a meeting. It is important that press releases are issued to the media as soon as possible after the conclusion of a meeting - not normally more than 24 hours after the conclusion of a meeting. (See below for who should act as spokesperson).

Press Releases Requested by Councillors

It is perfectly acceptable for a Cabinet Member/Overview and Scrutiny Chairman, Task Group chair or Committee Chairman to request an Officer to produce a press release relating to their role outlined above.

However, Officers should not produce press releases for Councillors on individual ward or party political issues prejudging a decision of a properly constituted councillor meeting.

Logos

The City Council Logo forms part of the Press Release template and therefore all Council press releases carry the Council logo and crest. However, when issuing a press release with a partner it may be appropriate to create another press release template carrying both the Council logo and the logo/s of the other partner/s involved.

Equal Opportunities and Race Equality Policies

When drafting press releases or selecting photographs, all Officers should be mindful of the Council's Equal Opportunities and Race Equality Policies

Publicity should avoid stereotyping of roles and should demonstrate the Council's commitment to providing equality of services and opportunities to people of either sex, any colour, sexuality, all races and people with disabilities

Advertisements and information about services should be circulated widely and, wherever necessary, communicated in appropriate community languages

ii) Who should act as official spokesperson?

Technical/Factual Information

When providing information of a technical/factual nature (such as planning technicalities, new Benefits policies) on a topic yet to go to Cabinet/Overview and Scrutiny/Committee/Council, which has been to one of the above or which does not go to any of them, it is appropriate to use an Officer

Commenting on an Issue

Where a comment is required on a subject that has been to Cabinet/Overview and Scrutiny/Task Group/Committee/Council then the relevant Cabinet Member, Overview and Scrutiny Chairman/Committee Chairman, Task Chairman or Council Chairman will normally act as the Council's Spokesman.

If the appropriate Member is not available/contactable for interview at the requested time it may be appropriate to use an Officer. In these circumstances Officers must clear this with the Communications Team before giving any interviews.

Partners

Where the Council is involved in issuing a press release as part of a partnership arrangement eg the Community Safety Partnership, the Partnership's arrangements for who to quote should be followed. This would normally be the Chair of that organisation. In the case of a press release being prepared on behalf of a number of partners it may be appropriate to offer each partner an opportunity to be quoted.

Political

If it is necessary, from a factual point of view, for a press release to identify by name one or more of the political Groups on the Council, then either a Spokesperson for that political Group(s) should be provided with the opportunity to comment in the press release issued on behalf of the Council or no politicians should be quoted at all. Group Leaders contact details will normally be provided to the media on request and Political Groups will determine their own spokespersons

iii) Media Events/Launches/Receptions

Anyone organising an event to which the media is to be invited should liaise with the Communications Team in the first instance, providing details of times, venues and who is being invited. This will ensure that the no two events are taking place at the same time. In this way we will reduce the risk of spreading the media too thinly and maximise opportunities of gaining positive publicity. In addition it will ensure the Communications Team is fully up-to-speed in the event of any media enquiries.

Each occasion will require a different audience but, in general, one or more of a combination of the following would normally be invited: Cabinet Member, Chairman of the Overview and Scrutiny Committee, Chairman of the Regulatory Board, Ward Councillor(s)

Guidelines to assist Officers setting up a media reception etc are available on the intranet. The Communications Team is also happy to help.

iv) Photo Opportunities

Creating Photo Opportunities

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The general rule is that where photo opportunities arise the relevant Councillors are invited. Depending on the issue this could be one or a combination of the following: Cabinet Member, Chairman of Overview and Scrutiny Committee, Chairman of the Regulatory Board, Ward Councillor(s).

However, our goal is to achieve positive publicity for the Council as a whole and therefore some degree of flexibility is necessary in order to achieve that goal.

For example, photographic opportunities often arise at short notice. By needing to contact the relevant Councillors to arrange a time when all can be present, there are times when a photo opportunity and therefore positive publicity may be lost

There are also times when it is appropriate to include Officers for photo opportunities (see examples below).

There are also times, depending on the story, when the photographer may wish to reduce or increase the number of people who'd normally be invited to take part in a photo opportunity.

Anyone organising a photo opportunity should liaise with the Communications Officer to discuss how it should be handled

Example a:

Photograph as a result of a Cabinet/Committee/Overview and Scrutiny/Regulatory Committee Meeting:

The appropriate Cabinet Member/s and Overview and Scrutiny Chairman/Task Group/Regulatory Committee Chairman would normally be invited.

Example b:

Large/high profile events eg Bus Station Launch, Millennium Bridge Launch etc. Appropriate Cabinet, Overview and Scrutiny Chairmen and Regulatory Committee Chairmen and Ward Councillor/s would normally be invited.

Example c:

Civic-related photo opportunities eg Council signing up to a charter/declaration/handing over a cheque/receiving a cheque etc. The Leader of the Council or appropriate Cabinet Member and the Mayor or Deputy Mayor should be invited to act as representative of the Council

Example d:

Quirky photo opportunity to highlight a Council story/not high profile issue eg Environment Co-ordinator distributing Local Agenda 21 Consultation by bike or launch of Town Hall Tours, Children's Festival – Officers and/or Leader of the Council or appropriate Cabinet Member would normally be invited

Details of any photo opportunities should also be cleared with the Communications Officer ahead of any invites being sent out to the media.

Taking Photos for the Media

On occasions the media will not be able to turn up to a photo opportunity but will accept contributed photographs. For advice about taking photographs for the media please contact the Communications Office. Similarly photographs should be submitted to the media via the Communications Office.

v) Campaigns/Sustained Coverage of Topic

The Service Head and the Communications Officer will liaise to discuss the potential for sustained coverage of topics eg Recycling, the Regeneration of Morecambe, Luneside East

By drawing up a media strategy/campaign on a particular topic the Council can pinpoint what particular aspect it wants coverage of and more accurately time when it wants any coverage to appear in the media

Such a campaign can be targeted generally at all/majority of the local media locally or it can be targeted at a specific newspaper/radio as a 'joint' Council/newspaper and/or radio campaign

vi) Success Stories

All Officers should play their part in keeping the Communications Officer up-to-date on success stories eg successful grant bid, completion of a project, employee development etc

vii) Human Interest Stories

The media are always interested in 'human interest' stories. These might not relate specifically Council issues but are nevertheless an important tool in building up a positive image of the Council, its Councillors and employees and making us appear 'human' to those outside the Council

Examples of human interest stories: Unusual hobbies of individuals, special achievement of an individual eg first woman refuse collector, member of staff marrying another member of staff, bizarre holiday location/experience, two sets of twins born to staff on same day etc

Officers and Councillors should take the initiative to inform the Communications Officer of relevant stories.

viii) Mayoral Publicity

The Communications Officer and Member Services will work closely to encourage increased publicity for mayoral activities. This will include:

The continued publication of the Weekly Mayoral List

A weekly press release highlighting the key events in greater detail - to be sent to all media

Asking the Mayor to alert us to any unusual/interesting experiences/incidents/events she comes across in her duties

Enabling the mayor to become more "interactive" in terms of photo opportunities whilst always recognising the need to maintain and follow the mayoral protocol

3. Developing Relationships with the Media

The City Council's Communications Team is in contact with a vast array of media from local papers to national and international television stations. However, the main day-to-day contact is with the local media:

Lancaster Guardian
Morecambe Visitor
Lancaster and Morecambe Citizen
Lancashire Evening Post
Westmorland Gazette
Bay Radio
Radio Lancashire
Granada Television
BBC North West

Virtual Net (local web based newspaper)

The Council's relationships with the local media are generally good. Take up of press releases is high and the percentage of media requests for Council comments is, on the whole, good and improving. However, it is important to maintain and develop our relations with the media and to be responsive to their changing needs.

i) Deadlines

If we want a chance of getting our side of the story included in the media it's imperative that we meet the deadlines we are given. Further information on the local media deadlines is available from the Communications Section of the Intranet, but a basic rule of thumb is that all Officers contacted by the Communications Team regarding a media enquiry should treat it as a priority.

ii) Meet the Media Events

An annual Meet the Media event will continue to be held to introduce new Cabinet Members/Review Board and Committee Chairmen to the media.

iii) Media Briefings/Press Launches

When relevant, media briefings should be arranged, to brief the press on an issue of importance to the public eg new Licensing Regulations, Comprehensive Performance Assessment, Budget etc. This will also provide an opportunity for lead Officers and Councillors to build relations with the media.

Officers organising a media briefing or press launch should liaise with the Communications Officer regarding the organisation of the event.

iv) Annual Media Survey

An annual survey of the local media will continue to be carried out to ascertain the media's views on the level of service the Council provides and to learn how they feel we could improve that service.

v) Councillor Contacts

A Council 'contacts' list of the Leader of the Council, Cabinet Members, Review Board Chairmen and Committee Chairmen will be prepared and circulated to the local media. Photographs of all Councillors will also be provided to the photography departments of the local media.

vi) Media Awareness Training

In-house Media Awareness Training courses are provided to all interested staff (please contact the Training Officer for more details). This helps to improve the overall quality of service provided by the Council to the media.

4. Managing Negative Issues

From time-to-time the Council has to respond to negative issues. It is important that we 'manage' these situations so as to limit the potential for negative publicity.

i) Alerting the Communications Team

When Management Team and/or Service Heads become aware of a potentially damaging/negative issue they should immediately alert the Communications Officer.

Service Heads and the Communications Officer should work together to prepare an appropriate position statement/response. Wherever possible this should be done ahead of a story breaking. The response can then be used, if the potentially damaging issue is to be used by the media. In order to ensure that the Council's position is outlined to Councillors, briefings on difficult issues should be circulated to appropriate Councillors and staff.

ii) Developing Database of Briefing Material

A database with briefing material on a wide range of issues will continue to be developed to assist this process.

iii) Briefing the Media

On occasion it may be necessary to brief the media personally or to hold a press briefing to 'manage' a breaking story. The Communications Manager will take a decision on this in conjunction with other relevant Officers

iv) Correcting Inaccurate Reporting

The Council should make every effort to correct inaccurate reporting of Council issues. Discussion with the Communications Officer should take place in order to examine the most appropriate form of action eg personal contact, personal letter to the editor, open letter, legal advice.

Officers should act as spokesperson on any factual information and the relevant Cabinet member should act as spokesperson should a comment be required.

Officers need to respond quickly to requests for information from the Communications Officer to provide an accurate and full briefing of an inaccurate report.

v) When the Council gets it wrong

Occasionally the Council will get something wrong. In terms of damage limitation the best policy is generally to hold our hands up, apologise and draw a line under the episode by moving the story forward, outlining how we are going to/are already learning from error/how we are putting it right. This kind of situation should be handled in consultation with the Communications Officer

vi) Leaked Items

Occasionally 'confidential' Council items are 'leaked' to the media.

The Council policy is that normally it does not comment on leaked or confidential items.

However, if an item which is not 'confidential', but which has yet to go into the official public forum eg Cabinet/Review Boards/Council, is 'leaked' it may be appropriate for the Council to issue a comment. Each case will be judged individually.

In both scenarios the Communications Officer should be made aware and be involved in discussions on how to/whether to respond.

vii) Political Issues

There are occasions where an issue becomes 'political'. In these circumstances an official Council response will not be given but Political Groups can comment directly.

5. Monitoring and evaluating

The Communications Team will continually monitor the media perception of the Council using the aims and objectives set out under aims and objectives section (P2) and a media monitoring software system, Newsflash.

Reports of news coverage, how enquiries and releases have been used (positive, neutral or negative) will be circulated electronically to all Group Leaders, Group Administrators, Cabinet Members/Overview and Scrutiny Chairman and Committee Chairmen, individual members *upon request*, the Chief Executive, Directors and Service Heads on a twice weekly basis.

A more comprehensive report evaluating media coverage will be produced annually.

Detailed monitoring reports, specific to a service or subject, can be provided on request.

Press releases will also be circulated to the above list via e-mail regularly.

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All press releases will continue to be posted on the Intranet and website as soon as they are issued.

Copies of all newspapers are available for viewing in the Communications Office. Cuttings of any national coverage or reports of any radio or television interviews should be passed to the Communications Office.

PART 6

MEMBERS' ALLOWANCES SCHEME

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Part 6 Members' Allowances Scheme

1.0 INTRODUCTION

1.1 The scheme outlined in this document was based on the recommendations of the Independent Panel in accordance with the Local Authorities (Members' Allowances)(England) Regulations 2003. The Scheme came into effect on 1st November 2003 and will be reviewed after 4 years (i.e. no later than 31st October 2007). Amendments to Section 3 of the Scheme are included as approved by Council on 16th March 2005.

2.0 BASIC ALLOWANCE

2.1 Basic allowance is to be paid to all Members, and is intended to recognise a time commitment expected of all Members, including such inevitable calls on their time as meetings with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of homes and private telephones.

2.2 Each Member is entitled to £2,895 per annum, which will be paid monthly.

3.0 SPECIAL RESPONSIBILITY ALLOWANCE

3.1 A special responsibility allowance will be paid in addition to any entitlement to basic allowance for those Members who have significant responsibilities.

3.2 The Members receiving special responsibility allowance and the allowances payable are as follows:-

	2005/06
Leader of the Council and Chairman of the Cabinet	£9,700
Cabinet Members	£4,850
Overview and Scrutiny Committee Chairman	£3,640
Budget and Performance Panel Chairman	£2,910
Planning Committee Chairman	£3,755
Licensing Regulatory Committee Chairman	£3,755
Licensing Act Committee Chairman	£3,755
Personnel Committee Chairman	£2,870
Audit Committee Chairman	£2,000
Appeals Committee Chairman	£500
Group Leaders	£1,620 plus £81 per Member
Group Administrators	£545 plus £102 per Member

3.3 In addition to the above Member responsibilities the Independent Chairman of the Standards Committee will also receive a co-optee's allowance of £1,065. (Subject to review pending the receipt of the Local Government Act 2000 Section 66 Regulations.)

3.4 No Member is entitled to more than one payment from the Scales identified above.

3.5 It will be for individual Members who would qualify for more than one special responsibility allowance to inform the Head of Administration Services as to which allowance they would wish to be allocated, otherwise it will be assumed that the highest allowance is to be paid.

CARERS' ALLOWANCE

4.1 The Council will make reasonable payments for the reimbursement of the care of dependent relatives living with the Elected Member. Full details of the Carers' Allowance Scheme are attached at Appendix A.

PART PAYMENTS

5.1 In the case of basic and special responsibility allowances, payment will only be made for the period during which a person performs the duties for which these allowances are payable. Where a member (or co-optee) is suspended or partially suspended from his responsibilities or duties as a member of the Council, in accordance with Part III of the Local Government Act 2000 or regulations thereunder, the part of basic allowance or special responsibility allowance payable to him in respect of the period for which he is suspended or partially suspended may be withheld by the Council.

REPAYMENTS

6.1 Where payment of any allowance has already been made in respect of any period during which the member concerned is suspended or partially suspended from his responsibilities or duties as a member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made thereunder, or ceases to be a member of the Council or is in any other way not entitled to receive the allowance in respect of that period, the member (or co-optee) shall repay to the Council on demand such part of the allowance as relates to any such period.

REVOCATION

7.1 Basic and special responsibility allowances will be paid automatically unless notice is received in writing from the Member concerned revoking the entitlement. All such notices should be delivered to the Head of Financial Services.

CLAIMS

8.1 Claims for travel and subsistence allowances should be submitted monthly, and in no event later than 3 months from the date on which the entitlement to the allowance arose (see Reg 14(1)). Claims must be made on the official claim form available from the Head of Financial Services.

8.2 Claims received by the 25th of the month will be paid on the 15th of the following month. Claims received after the 25th cannot be guaranteed to be paid the following month.

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8.3 Payments are made net of income tax, through the PAYE system used for salaried employees. Bank details are, therefore, required for each Member. If a Member changes their bank details, the revised details should be provided to the Head of Financial Services.

9.0 TRAVEL AND SUBSISTENCE ALLOWANCES

9.1 In addition to the Members' Allowances Scheme, travel and subsistence allowances are payable.

9.2 A full schedule of rates payable for travel and subsistence and eligible duties is attached at Appendix B, and the approved duties for which travel and subsistence allowances are payable are set out in Annexes 1-3.

10.0 LGA ALLOWANCES

10.1 For those Members of the Council who have accepted political appointments on the LGA the Council's policy for the payment of Carers Allowances and Travel and Subsistence Allowances is set out at Appendix C.

11.0 PUBLICATION

11.1 The Council is required to publish details of the Members' Allowances Scheme and the total amounts received by each Member. The Head of Administration Services is responsible for this matter.

12.0 MAYORAL AND DEPUTY MAYORAL EXPENSES

12.1 These expenses are paid to the Mayor and Deputy Mayor to reflect the additional expenditure that arises with these positions.

12.2 The level of Mayoral allowances will be:-

2005/06

Mayor	£5,890
Deputy Mayor	£1,175

13.0 REVIEW OF SCHEME

13.1 Allowances shall be adjusted annually on the 1st May in each year (for a maximum of 4 years) by reference to the Retail Price Index (excluding mortgages) RPIx.

13.2 The Independent Panel will monitor the Scheme.

13.3 Minor revisions are the responsibility of the Corporate Director (Central Services) in consultation with the Chairman of the Independent Panel.

13.4 Any queries or matters of clarification or determination as to Members' entitlements to any provisions of this scheme shall be ultimately determined by the Corporate Director (Central Services).

14.0 **QUERIES**

- 14.1 Any specific queries regarding the entitlement to the scheme should, in the first instance, be addressed to the Head of Administration Services (telephone 582060). Queries regarding claims and payments should be addressed to the Allowances Clerk in Financial Services (telephone 582134).

CARERS' ALLOWANCE SCHEME

1.0 **Legality**

- (a) The scheme is established by the Council under the Local Authorities (Members Allowances) (England) Regulations 2003. The Carers' Allowance is payable in respect of the approved duties set out in Annexes 1-3 of Appendix B. The scheme requires Councillors claiming the allowance to demonstrate and certify that carer expenses are actually and necessarily incurred in the conduct of their official duties.

2.0 **Entitlement**

- (a) The scheme provides for payments to be made to Councillors in respect of care for "dependent relatives" living with the Member. For the purposes of the scheme, "dependent relatives" are defined as:
- (i) children aged 14 or under;
 - (ii) elderly relatives requiring full-time care; and
 - (iii) relatives with disabilities who require full-time care.
- (b) The allowance is payable for care provided by carers registered by a Councillor with the Authority (see paragraph 6.0(b) for details). In the case of (i) above, under no circumstances will the allowance be payable to another parent, the parent's spouse or partner. In the case of (ii) and (iii) above, under no circumstances will the allowance be payable in respect of care provided by a member of the Councillor's household.
- (c) For meetings or duties within the Council's boundaries as set out in Annexes 1, 2 and 3, the allowance will be paid for the duration of the meeting or otherwise approved duty plus an allowance for up to one hour's travelling time before and after the meeting. For duties outside the Council's boundaries, the allowance will be paid for the duration of the duty plus the actual travelling time to and from the venue. In all instances, total time claimed should be rounded to the nearest half-hour.

3.0 **Rates of Allowance**

- (a) The actual cost of care will be reimbursed, up to a maximum of £6.00 per hour, irrespective of the number of dependants.
- (b) Where a dependent relative requires specialist professional care, the full cost of care will be allowed, with the prior written approval of the Head of Administration Services (HAS) (see paragraph 6 (b)).

4.0 **Claims Procedures**

- (a) Members wishing to apply for Carers' Allowance must submit an application form to the HAS, declaring that:
- (i) claims made will only be made in respect of a named dependent relative (or relatives) as defined in the scheme;
 - (ii) claims will only be made in respect of the entitlements set out in 2.0 above;
 - (iii) receipts will be provided in support of all claims; and
 - (iv) where a specialist professional carer is to be engaged, that this is a necessary expense for which full reimbursement will be claimed.

- (b) Members are required to notify Member Services in the event of their entitlement to Carers' Allowance ending.
- (c) All claims will be processed by Financial Services through the Council's payroll system. In exceptional circumstances, and with the approval of the Head of Financial Services, advance payments may be made in cash and subsequently adjusted through the payroll.

5.0 **Taxation and National Insurance Contributions**

Advice from the Council's taxation consultants is that payments made under such a scheme will be subject to Income Tax and NIC's unless an arrangement can be reached with the Inland Revenue and dispensation not to tax obtained on the basis that the payments are reimbursement of costs actually and necessarily incurred.

Because of the potential taxation and NIC implications, all payments must be processed through the Council's payroll system.

Negotiations are being entered into with the local Inland Revenue office with a view to agreeing the principle of a dispensation not to tax any Carers' Allowances payable.

6.0 **Administration**

- (a) The scheme is an integral element of the Council's Members' Allowances Scheme, and responsibility for supervising, maintaining and reviewing the scheme is assumed by the Head of Administration Services.
- (b) Signed applications for registration of a carer are to be submitted by Members for approval by the Head of Administration Services. Approved applications will be retained by the Member Services Section and a copy forwarded to Financial Services.
- (c) Claims for payment of the allowance should be submitted by Members to Financial Services on the revised standard Members' Allowances forms. All claims must be supported by a signed pro-forma receipt (in the case of care provided by a non-professional carer) or a receipted official invoice in the case of a specialist carer. Financial Services will check all claims for approval of entitlement, accuracy and reasonableness of duties and times claimed, and submission of supporting receipts and invoices.
- (d) Any queries regarding entitlement to the allowance, or individual claims, will be referred in the first instance to Member Services. Should a dispute arise as to the eligibility of a claim, this will be referred to the Head of Administration Services or Corporate Director (Central Services) for decision. Should agreement not be reached between the Member and the Head of Administration Services or Corporate Director (Central Services), the matter will then be referred to the Members' Allowances Panel for arbitration.

7.0 **Audit**

Internal Audit will review the systems for payment of Members' Allowances on a cyclical basis and include sample testing of Members' Allowances transactions in annual probity programmes.

TRAVEL AND SUBSISTENCE ALLOWANCES PAYABLE

Travelling Allowances

(A) Public Transport (except taxis and aircraft)

- (i) The rate must not exceed the ordinary first class fare on ships or ordinary standard class fare elsewhere, or any available saver fare, but the Council may generally or specially determine to substitute first for standard class fare.
- (ii) Supplementary allowance may be paid for expenses actually incurred on Pullman Car or a similar supplement, reservation of seats, deposit or portage of luggage and sleeping accommodation for overnight journeys, but in this last case the maximum overnight subsistence allowance is reduced by one-third.
- (iii) All long distance rail journeys and sea-travel bookings must be made by Members Services on behalf of Councillors, to seek the most cost-effective deal within current parameters.
- (iv) For journeys by public transport the cost of any private vehicle travel to and from the point of public transport may also be reimbursed at the rate set out in B below.
- (v) For journeys within the 35-mile radius of Lancaster Town Hall valid receipts must be produced.
- (vi) For journeys beyond the 35 mile radius of Lancaster Town Hall where the journey has been undertaken by car, the equivalent of a standard class rail fare as determined by Members Services on receipt of the claim shall be payable, subject to this being less than the payable rate set out in (B) below.

(B) Private Vehicle – for journeys with a destination less than 35 miles as the crow flies from Lancaster Town Hall or where the cost would be lower than the equivalent standard class rail fare:

- (i) By motor cycle or motor car - 40p per mile. (The rate payable is that recommended by the Inland Revenue and will be increased in line with their guidance.)
- (ii) If passengers otherwise entitled to allowances are carried, the vehicle's owner may be paid for each such passenger up to four at a rate of 1.0p per mile.
- (iii) Cycling/other non-motorised transport allowance (in all cases) - 36.4p per mile
- (iv) Supplementary payments may be made for tolls, ferries and parking fees actually incurred (on production of a valid receipt).
- (v) Payment of mileage allowance is limited to journeys with a destination less than 35 miles as the crow flies from Lancaster Town Hall.
- (vi) Beyond the 35-mile limit, the lower of the mileage allowance and the equivalent standard class rail fare will be paid. However the cost of any private vehicle travel to and from the point of public transport may also be reimbursed at the rates set out above.

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(C) Taxis and Hire Vehicles

- (i) Taxis: in cases of urgency or where there is no reasonably available public transport, the fare plus any reasonable gratuity paid. In other cases, the fare by appropriate public transport.
- (ii) Hire Vehicles: the rate appropriate if the Member had owned the vehicles, unless the Council approves additional amounts up to the actual hiring cost.

(D) Aircraft

- (i) The rate applicable to travel by appropriate alternative transport plus any amount of attendance or financial loss or subsistence allowance saved by travelling by air.
- (ii) But if the Council generally or specially resolves that the saving in time is so substantial, then –
 - (a) the ordinary or available cheap fare by regular service; or
 - (b) where no such service is available or in the case of emergency, the fare actually paid.
- (iii) The Corporate Director (Central Services) and Head of Administration Services have discretion to authorise air travel.
- (iv) All bookings must be made by Members Services on behalf of Councillors.

Subsistence Allowance

- (i) In case of an absence, other than an overnight absence from home, subsistence allowance is payable as follows –

Breakfast (when more than 4 hours away from normal place of residence)
Members on approved duties who leave home before 7.00 a.m. to attend a location outside the Council's boundary, may claim breakfast expenses as follows -

Breakfast, on production of a valid receipt	Up to £5.25
Breakfast, (in London), on production of a valid receipt	Up to £7.75
Breakfast, (in or out of London), where unable to produce a receipt	£2.75

Lunch (when more than 4 hours away from normal place of residence)
Members on approved duties outside the Council's boundary from 11.45 a.m. to 1.30 p.m. may claim lunch expenses as follows –

Lunch, on production of a valid receipt	Up to £5.25
Lunch, (in London), on production of a valid receipt	Up to £7.75
Lunch, (in or out of London), where unable to produce a receipt	£2.75

Evening Meal (when more than 4 hours away from normal place of residence)
Members on approved duties who have not returned home by 7.30 p.m. may claim an evening meal as follows –

Evening meal, on production of a valid receipt	Up to £10.25
Evening meal, (in London), on production of a valid receipt	Up to £15.75
Evening meal, (in or out of London), where unable to produce a receipt	£5.25
In the case of an overnight absence -	£81.50
For an overnight absence in Central London	£93.00

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- (ii) The value of free meals must be deducted from the allowance. Where main meals are taken on trains during which there is an entitlement to a day subsistence allowance, the reasonable cost of meals (including VAT) may be reimbursed in full. In such circumstances, reimbursement for the cost of a meal would replace the entitlement to the day subsistence allowance for the appropriate meal period.
- (iii) All accommodation bookings should be made by Member Services.
- (iv) Where pre-booked the cost of hotel meals will be paid by the Council.

Eligible Duties

Approved duties eligible for claiming travel and subsistence allowances are set out in Annexes 1, 2 and 3.

Approved Duties - Meetings of the Authority
Council
Committees established by Council and any sub-committees established by those Committees, currently:
Personnel Committee
Audit Committee
Appraisal Panel
Appeals Committee
Licensing Regulatory Committee
Licensing Act Committee
Planning and Highways Regulatory Committee
Scheduled Planning Briefings
Standards Committee
Cabinet
Committees established by Cabinet, currently:
Lancaster and Morecambe Markets Committee
Grants Committee
Performance Review Committee
Cabinet Liaison Groups established by Cabinet
Scheduled Cabinet Briefings
Overview and Scrutiny Committee
Task Groups established by Overview and Scrutiny Committee
Budget and Performance Panel

Approved Duties - Outside Bodies

Note: All the following bodies are currently operating with one or more Council-nominated representative. Representatives are usually, but not necessarily, Councillors. Where non-Councillors are currently nominated to an outside body, this is indicated in the right hand column of the table. The Council has no authority to pay expenses to such representatives.

Organisation	'Outside' Nominee(s)
Age Concern, Lancaster	
Age Concern, Morecambe and Heysham	
Alfa Aesar Liaison Group	
Arnsdale & Silverdale AONB (Limestone Heritage Project, Forum, CMS)	
Arnsdale & Silverdale AONB Unit	
Barton Road Youth and Community Centre Community Association	Yes
Board of Trustees of Skerton Charities	Yes
Board of Trustees of the Lancaster Charity	
Boys Club of Lancaster Executive Committee	
British Resorts Association	
Budgie Bikes of Lancaster Steering Committee	
Carnforth Area Regeneration Partnership	
Carnforth Station and Railway Trust Company Limited	
Citizens Advice Bureau, Lancaster	Yes
Citizens Advice Bureau, Morecambe and Heysham	Yes
Community Legal Services Partnership	
Community Safety Strategy Group:	
Executive	
Lancaster Action Group	
Morecambe Action Group	
Rural Action Group	
Court of the University of Lancaster	
Court of the University of Manchester	Yes
Crook O'Lune Advisory Committee	
District Liaison Committee for Education	
District Liaison Committee for Social Services	
District Youth and Community Service Advisory Committee	
Dukes Playhouse Board of Directors	
East Lancashire Partnership Board	
English Historic Towns Forum	
Fats and Proteins Liaison Group	
Folly Board of Trustees	
Forest of Bowland AONB Joint Advisory Committee	
Friendship Centre Management Committee	
George Fox School Educational Charity	Yes
Governing Body - Adult College, Lancaster	
Governing Body - Bowerham Community School, Lancaster	
Governing Body - Cathedral RC School, Lancaster	
Governing Body - Christ Church CE School, Carnforth	Yes
Governing Body - Christ Church CE School, Lancaster	Yes

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Organisation	'Outside' Nominee(s)
Governing Body - Dallas Road County School, Lancaster	
Governing Body - Greatwood County Primary School, Morecambe	Yes
Governing Body - Greaves Park Nursery School, Lancaster	
Governing Body - Grosvenor Park School, Lancaster	
Governing Body - Lancaster & Morecambe College Corporation	Yes
Governing Body - Lancaster Road County School, Morecambe	
Governing Body - Moorside County School, Lancaster	Yes
Governing Body – Morecambe Bay County Primary School	
Governing Body - Mossgate School, Morecambe	
Governing Body - Our Lady of Lourdes RC School, Carnforth	Yes
Governing Body - Poulton-le-Sands School, Morecambe	
Governing Body - Ridge School, Lancaster	Yes
Governing Body - Ryelands County School, Lancaster	
Governing Body - Sandylands County Primary School, Morecambe	
Governing Body - Scotforth CE School, Lancaster	
Governing Body - Skerton County School, Lancaster	Yes
Governing Body - St Bernadette's RC School, Lancaster	
Governing Body - St Joseph's RC School, Lancaster	
Governing Body - St Luke's CE School, Lancaster	
Governing Body - St Martin's College	
Governing Body - St Mary's RC School, Morecambe	Yes
Governing Body - St Peter's CE School, Morecambe	Yes
Governing Body - Torrisholme County Primary School, Morecambe	
Governing Body - Trumacar County Primary school, Morecambe	
Governing Body - West End School, Morecambe	Yes
Governing Body - Westgate County Primary School, Morecambe	
Governing Body - Willow Lane Community School	Yes
Governing Body - Willow Lane Nursery School, Lancaster	
Groundwork Trust, Regeneration	
Heysham Mossgate (Community Facilities) Company Limited	
Heysham Nuclear Power Station LCLC	
Heysham Youth and Community Centre Management Committee	Yes
Homelessness Forum	
Lancashire County Council Health Equalities Overview and Scrutiny	
Lancashire Leaders Meeting	
Lancashire Police Authority – Partnerships Forum	
Lancashire Rural Partnership	
Lancashire Tourism Partnership	
Lancashire Valuation Tribunal	Yes
Lancashire West Partnership	
Lancaster & District Multi Agency Forum on Domestic Violence	
Lancaster & Morecambe Fairtrade District Steering Group	
Lancaster & Skipton Rail User Group	
Lancaster District CVS	
Lancaster International Twinning Society	
Lancaster Local Strategic Partnership and its sub groups	
Lancaster Police and Community Forum	
Lancaster Regeneration Partnership	

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Organisation	'Outside' Nominee(s)
Lancaster Ripley Church of England Education Trust	
Lancaster University Council	
Lancaster, Morecambe and District Sports Council	
Leeds to Morecambe Railway Development Partnership	Yes
LGA Coastal Issues Special Interest Group	
LGA Rural Commission	
LGA Tourism Forum	
LGA Urban Commission	
Lifelong Learning	
Local Agenda 21 Partnership Steering Group	
LSP Children and Young People Group	
LSP Health and Wellbeing Group	
LSP Regeneration Building Block	
Lune Valley Transport Enterprise	
MAPfED	
Marsh Community Centre Management Committee	
Morecambe Bay Partnership	
Morecambe Bay Tobacco Control Alliance	
Morecambe Healthy Living Centre	
Morecambe Music Festival	
Morecambe Resort Action Plan Steering Group	
Museums Advisory Panel	
North & West Lancs Priority 1 Action Plan Partnership Board	
North West Home Safety Council	
North West Lancs Partnership Group	
North West Local Authorities Employers' Organisation	
North West Regional Assembly	
North West Tourist Board	
Northern Reaches Steering Group	
Poulton Neighbourhood Management Board	
Preston and Western Lancs Racial Equality Council	
Relate Lancashire, Lancaster District	
Reserve Forces and Cadets Association for NW of England and Isle of Man	
Riverview Day Centre, Lancaster	
Signposts Executive Committee	
Surestart Management Board	
Tern Project Working Group	
Thorpe View Day Centre, Morecambe	
Waste Management Strategy Steering Group	
West Coast Rail 250	
West End Partnership	
Williamson Park Limited Board of Directors	
Winning Back the West End Steering Group	

Approved Duties - Other Duties
Attendance at Conferences/Seminars to which the Council or Cabinet has nominated a delegate
Media Receptions
Scheduled, Formal Meetings with Chief Executive/Directors/Service Heads
Mayoral and other public ceremonies/launches etc approved by the Council or Committee of the Council
Scheduled, Formal Meetings with Trade Unions
Scheduled, Formal Meetings of Cabinet / Overview and Scrutiny meetings / Working Groups

Notes:

The essential criteria for these, and any other such duties that may arise, is that they must be formally structured and diarised elements of Council business. The inclusion of other duties within this definition will be at the discretion of the Corporate Director (Central Services).

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Appendix CLGA Scheme of Members Allowances - City Council Policy

The LGA's current scheme of members' allowances became effective from April 2003. The main features of the scheme are:

- Members of all Executives are paid an annual lump sum 'Responsibility Allowance' reflecting both the time which might be spent and the level of responsibility involved in carrying out these posts; no other attendance allowance is paid;
- The LGA pays travel and subsistence for meetings at which a Member has been appointed in a representative role on behalf of the LGA. The City Council pays the travel and subsistence costs for other meetings.
- The LGA pays carers allowance in respect of all approved duties and to members representing the LGA on outside bodies.
- Allowances paid by the association are index-linked to the principal local government pay settlement.

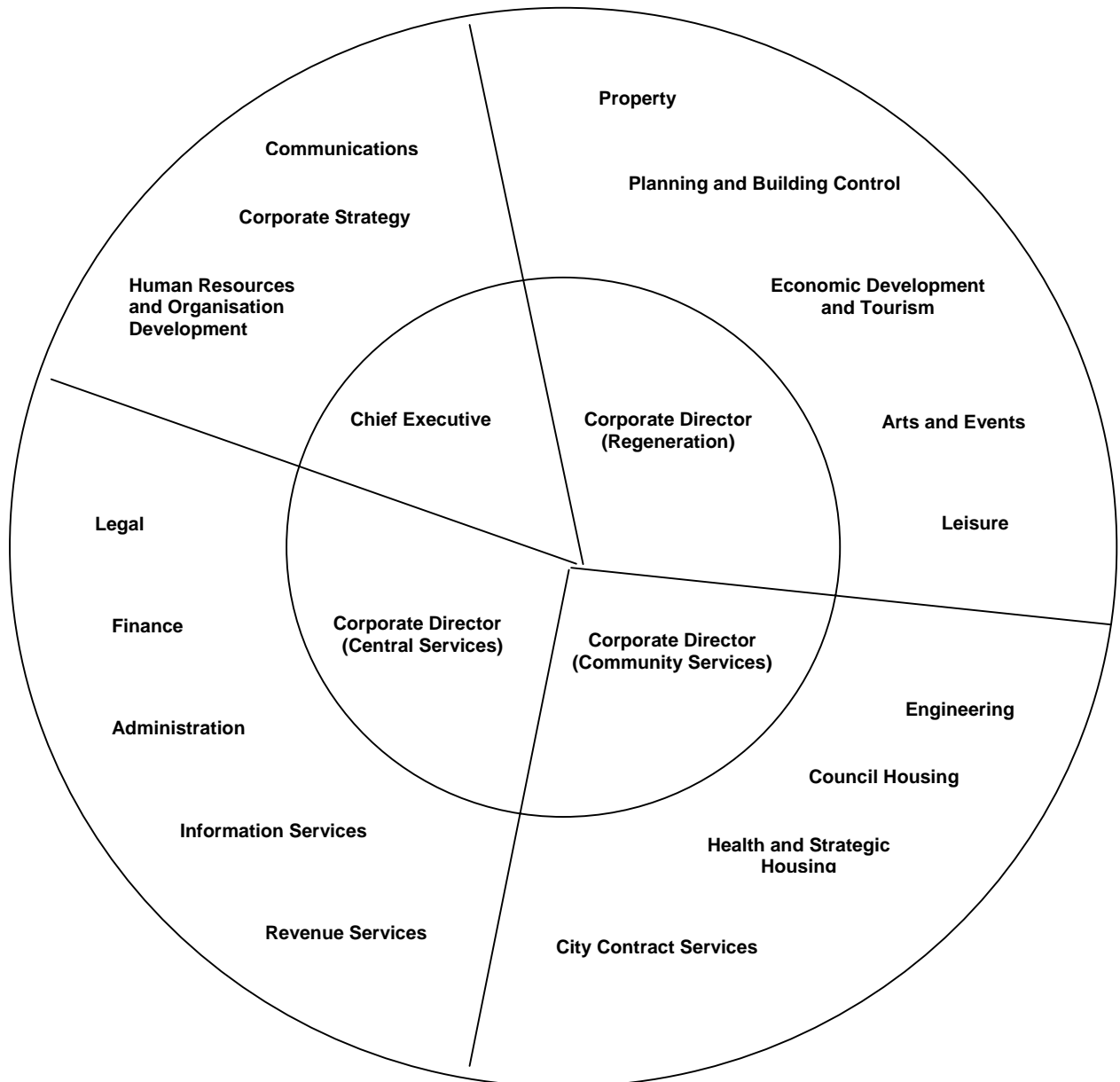
Type of Meeting	Travel & Subsistence	Carers Allowance
All standing committees, panels, forums and task groups of the LGA.	Reasonable travel and subsistence costs will be paid by the authority according to the current scheme of Members' Allowances. Wherever possible, travel and accommodation arrangements should be made through Member Services.	Actual expenditure up to a maximum (currently £4.50 per hour per dependant) paid by the LGA. This is payable for a maximum of the duration of the approved duty plus reasonable travelling time. Expenses incurred by Members are claimed in the first instance from the authority. The authority will submit a quarterly reclaim to the LGA.
Attendance at meetings with Ministers, Government Departments or consultations with other bodies where Members have been appointed by the LGA.	The LGA will pay travel and subsistence costs at the rates currently specified by the Secretary of State, subject to reimbursement of rail fares on the basis of the standard fare. The LGA requires receipts to be provided in support of travel and subsistence claims.	
Attendance at receptions, visits, conferences, seminars, or other functions where Members have been appointed by the LGA to attend in a representative role on behalf of the LGA.	Expenses incurred by Members should be claimed in the first instance from the authority. The authority will submit a quarterly reclaim to the LGA.	
Attendance as the LGA's appointed representative on any public body, charity, voluntary body or other organisation formed for a public purpose (and not for the benefit of its members).		
One Party meetings or duties.	Any travel & subsistence to be funded by the political fund of the relevant party.	
Non-Approved Duties: Including General Assembly, Urban Commission, Rural Commission, Special Interest Groups, Conferences where the authority pays a fee for attendance.	Reasonable travel and subsistence costs will be paid by the authority according to the current scheme of Members' Allowances. Wherever possible, travel and accommodation arrangements should be made through Member Services.	Carers allowance will be paid by the authority according to the current scheme for Members' Allowances.

PART 7

MANAGEMENT STRUCTURE

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Management Structure



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PART 8

GLOSSARY OF TERMS

Lancaster City Council
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SECTION 8 – GLOSSARY OF TERMS

In this Constitution, unless the context otherwise demands, the following terms have the meaning assigned to them:

“area forum” – a non- statutory, advisory and consultative body set up by the Council;

“authority” – the Lancaster City Council acting by any means which they may lawfully adopt;

“Budget and Performance Panel” – an overview and scrutiny committee established by Council under Section 21 of the 2000 Act;

“cabinet” – the executive body of the Council;

“call-in” – The consideration by the Overview and Scrutiny Committee of a decision made but not yet implemented, which may result in the recommendation that the decision be reconsidered by the person or persons who made that decision or that full Council be recommended that that decision be reconsidered in accordance with S21(2)(a) and (3) of the 2000 Act.

“chairman” – the person appointed to preside at any meeting, and in connection with a Council meeting, the Mayor, Deputy Mayor or other person appointed to preside;

“Chief Executive” – the Chief Executive for the time being or such person as he or she may appoint to represent him or her for the purpose of this Constitution;

“Chief Financial Officer” – the S151 Officer appointed by the Council, the Head of Financial Services;

“confidential” – information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court Order, or by virtue of any enactment as defined in the Access to Information Rules 10.03;

“committee” – a committee of the authority;

“controllable expenditure” – to be defined in relation to carry forward and virement arrangements making it clear that determination of what is controllable lies with the Section 151 Officer;

“Council” – the Lancaster City Council;

“day” – a whole calendar working day, i.e. a full 24 hour day excluding Saturday, Sunday and bank and public holidays;

“Deputy Mayor” – the vice-chairman of the council;

“employee” – an employee of the authority or the holder of a paid office under the authority other than the chairman, vice-chairman and any local officer of dignity appointed by the authority under powers conferred by a Royal Charter;

“exempt” – as defined by Schedule 12A of the 1972 Act and Article 10.04 of the Access to Information Rules in Part 4, Section 2 of the Constitution.

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“Forward Plan” – a plan to be published by the Cabinet and updated on a monthly basis in accordance with Regulations 13 and 14 of the 2000 Regulations, setting out its programme of work in the coming 4 months.

“group spokesperson” – designated representative of each political group having four or more members;

“Head of Paid Service” – the Chief Executive;

“Key Decision” – a decision which, in relation to an executive function, has a significant effect; as defined in Article 13, Part 2 of the Constitution.

“leader of a political group” – the leader of a political group as defined in the Local Government (Committee etc.) Regulations 1990;

“leader of the council” – such person as the council shall so designate by resolution to be leader of the Cabinet;

“local choice functions” – as defined by Regulation 3 and Schedule 2 to the Local Authority (Functions and Responsibilities)(England) Regulations 2000, where the Authority has decided which functions are to be the responsibility of the executive;

“Mayor” – the chairman of the council and civic and ceremonial representative of the Council;

“meeting” – a meeting of the council, Cabinet, a committee, Overview and Scrutiny or Task Group as the case may be;

“member” – in relation to the council, a member of the council; in relation to any other body a person appointed as a member of that body, whether or not entitled to vote;

“monitoring officer” – the Corporate Director (Central Services) or, if he or she is unable to act owing to absence or illness, the person nominated as his or her deputy;

“number of members” – in relation to the council, the number of persons who may act at the time in question as members of the council and in relation to any other body, the numbers of persons who may act at the time in question as voting members of that body;

“Overview and Scrutiny Committee” – Committee of the Council established in accordance with Section 21 of the 2000 Act;

“person presiding” – the person entitled, or appointed, to preside at any meeting;

“political balance rules” – as defined in the Local Government Act 1983 relating to proportional representation;

“political groups” – a political group as defined in the Local Government (Committees etc) Regulations 1990 or any statutory modification or re-enactment thereof;

“referendum” – as defined in the Referendum Act 2000;

“Regulatory Committee” – a committee undertaking “quasi-judicial” functions of the Council (such as licensing and planning and highways);

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“Task Group” – a time-limited working group established by the Overview and Scrutiny Committee in accordance with Overview and Scrutiny Procedure Rule 7;

“the 1972 Act” – the Local Government Act 1972;

“the 1989 Act” – the Local Government and Housing Act 1989;

“the 2000 Act” – the Local Government Act 2000;

“the 2000 Regulations” – the Local Authority (Executive Arrangements)(Access to Information)(England) Regulations 2000;

“vice-chairman” – the person appointed to preside, in the absence of the chairman, at meetings of any properly constituted body other than Council where it will be the Deputy Mayor.