



LANCASTER
CITY COUNCIL

Promoting City, Coast & Countryside

COUNCIL MEETING

**Wednesday, 26 September 2018 -
6.00 p.m.
Morecambe Town Hall**

Susan Parsonage,
Chief Executive,
Town Hall,
Dalton Square,
LANCASTER,
LA1 1PJ



LANCASTER CITY COUNCIL

Promoting City, Coast & Countryside

Sir/Madam,

You are hereby summoned to attend a meeting of the Lancaster City Council to be held in the Town Hall, Morecambe on Wednesday, 26 September 2018 commencing at 6.00 p.m. for the following purposes:

1. **APOLOGIES FOR ABSENCE**

2. **MINUTES**

To receive as a correct record the Minutes of the Meeting of the City Council held on 18th July 2018 (previously circulated).

3. **DECLARATIONS OF INTEREST**

To receive declarations by Members of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Whilst not a legal requirement, in accordance with Council Procedure Rule 9 and in the interests of clarity and transparency, Members should declare any disclosable pecuniary interests which they have already declared in the Register, at this point in the meeting.

In accordance with Part B Section 2 of the Code Of Conduct, Members are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

4. **ITEMS OF URGENT BUSINESS**

5. **ANNOUNCEMENTS**

To receive any announcements which may be submitted by the Mayor or Chief Executive.

6. **QUESTIONS FROM THE PUBLIC UNDER COUNCIL PROCEDURE RULE 11**

To receive questions in accordance with the provisions of Council Procedure Rules 11.1 and 11.3 which require members of the public to give at least 3 days' notice in writing of questions to a Member of Cabinet or Committee Chairman.

7. **PETITIONS AND ADDRESSES**

To receive any petitions and/or addresses from members of the public which have been notified to the Chief Executive in accordance with the Council's Constitution.

8. **LEADER'S REPORT** (Pages 1 - 3)

To receive the Cabinet Leader's report on proceedings since the last meeting of Council.

REPORTS REFERRED FROM CABINET, COMMITTEES OR OVERVIEW AND SCRUTINY

9. **COMMUNITY GOVERNANCE REVIEW OF THE DISTRICT: OUTCOME AND ORDER TO AMEND THE NAME OF THURNHAM PARISH COUNCIL** (Pages 4 - 9)

Referral from Council Business Committee.

10. **REVIEW OF THE COUNCIL'S CONSTITUTION: UPDATE** (Pages 10 - 34)

Referral from the Constitutional Working Group.

11. **PAY POLICY**

Referral from Personnel Committee.

Report to Follow.

MOTIONS ON NOTICE

12. **MOTION ON NOTICE - FRACKING** (Pages 35 - 38)

To consider the following motion submitted by Councillors Caroline Jackson, Dave Brooks and Tim Hamilton-Cox.

"Lancaster City Council notes that on 23 September 2015, this Council voted in favour of a motion that stated:

This council agrees to:

- (a) *Oppose fracking in the Lancaster district, or fracking outside our district which could affect residents within our district, and call upon the Government to reconsider its policy of encouraging fracking. (Thereafter giving 3 clear and detailed environmental reasons for this opposition – see original motion);*
- (b) *Urge the Government to scrap proposals to remove responsibility for determining fracking planning applications from local councils. (See original motion for more detail).*

Additionally, this Council further notes that:

*In May this year Ministers outlined a proposal in a Written Ministerial Statement to redefine non-hydraulic fracturing shale gas exploration applications as **permitted development** and to redefine large scale shale gas production sites as **Nationally Significant Infrastructure Projects**, thus removing any local authority control and community involvement in decision-making.*

That on 5 July 2018, a report by the cross-party Housing, Communities and Local Government Committee warned the Government against its proposals concluding that Mineral Planning Authorities, i.e. Lancashire County Council, were best placed to understand the local area and how fracking could best take place. And that the above report also said the Nationally Significant Infrastructure Projects regime was unlikely to speed up the application process for fracking.

Lancaster City Council believes:

- *It continues to support and promote its September 2015 resolution opposing fracking;*
- *That moving decisions about fracking, which have huge implications for local communities, to a national level contradicts the principles of localism;*
- *That 'Permitted Development' was designed for developments with low environmental impacts and is therefore not an appropriate category for drilling with such wide-reaching implications for local communities and climate change;*
- *That bringing fracking applications under the Nationally Significant Infrastructure Projects regime will be harmful to local communities; and,*
- *That local authorities are best placed to continue to make decisions throughout the planning process for shale gas exploration drilling, appraisal and production.*

Lancaster City Council resolves:

1. *To respond to the forthcoming government consultation with these views.*
2. *To share this response with Lancashire MPs and relevant government ministers.*
3. *To reaffirm its policy commitment to "oppose fracking in the Lancaster district, or fracking outside our district which could affect residents within our district".*
4. *To embed this policy within our Climate Change policy and the Council Plan (see resolution 23 July 2018) and so to communicate this policy to our residents, other local authorities, partner agencies and contractors."*

An officer briefing note is attached.

13. **MOTION ON NOTICE - LOCAL PLAN**

To consider the following motion submitted by Councillors Tim Hamilton-Cox, Caroline Jackson and Dave Brookes.

"This council notes that:

1) Among the four recommendations approved by full council on 20th December in connection with 'Advancing the Local Plan for Lancaster district', the second recommendation stated:

'[Full council] Delegates to the Chief Officer (Regeneration and Planning) the authority to make minor changes to improve the clarity, consistency and appearance of the documents and policies maps, and, insert additional illustrative or factual material prior to formal publication and submission.'

2) *The edition of the 'STRATEGIC POLICIES & LAND ALLOCATIONS DPD - PRE EXAMINATION (AUGUST 2018) presented to Planning Policy cabinet liaison group (PPCLG) at its meeting on 11th September, contained a significant number of 'suggested modifications' which were described variously as both 'minor' and*

'main'.

- 3) *PPCLG 'is a non-decision making consultative forum' and therefore is not in a position to formally approve the suggested 'main' modifications on behalf of full council.*

Accordingly, full council resolves to bring the edition of the 'STRATEGIC POLICIES & LAND ALLOCATIONS DPD', which is to be submitted to the public examination starting in January 2019, back to full council on 14th November. This will ensure that full council has an opportunity to debate the revised content, and to amend and approve the development plan document as necessary."

An officer briefing note to follow.

OTHER BUSINESS

14. DESIGNATION OF SECTION 151 OFFICER

To consider the report of the Chief Executive.

Report to Follow.

15. CONSTITUTION: AMENDMENT TO THE SCHEME OF DELEGATION (NON-EXECUTIVE FUNCTIONS) (Pages 39 - 43)

To consider the report of the Monitoring Officer.

16. APPOINTMENTS AND CHANGES TO COMMITTEE MEMBERSHIP

Group Administrators to report any changes to Committee Membership.

17. QUESTIONS UNDER COUNCIL PROCEDURE RULE 12

To receive questions in accordance with the provisions of Council Procedure Rules 12.2 and 12.4 which require a Member to give at least 3 working days' notice, in writing, of the question to the Chief Executive.

18. MINUTES OF CABINET (Pages 44 - 59)

To receive the Minutes of Meetings of Cabinet held 7th August and 4th September 2018.



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Chief Executive

Town Hall,
Dalton Square,
LANCASTER,
LA1 1PJ

Published on Tuesday 18th September 2018.



Leader's Report

26 September 2018

Report of the Leader of the Council

PURPOSE OF REPORT

To present the Leader's report to Council.

This report is public.

RECOMMENDATIONS

- (1) To receive the report of the Leader of Council.
- (2) To note an amendment to the Executive Scheme of Delegation detailed in paragraph 4.0.

REPORT

1.0 Cabinet

Information on Cabinet matters are provided in the minutes from the Cabinet meetings held on 3 July 2018, 7 August 2018 and 4 September 2018 later in this agenda.

2.0 Decisions required to be taken urgently

There are no decisions to report since the last Leader's Report on 18 July 2018.

3.0 Leader's Comments

It seems a long time since councillors were invited to see the work being done at St Leonards House. That was in July when some of us went up to the top of the building and were able to get a bird's eye view of Lancaster and out to sea. It has been a long time since the work started and it is now stripped out, we were promised that we could go back in the spring to see the finished product. This was a building in much need of improvement, adjacent to the Canal Quarter and it should contribute to an improved City Centre.

The Lancaster Leaders meeting on 24 July had a presentation on Lancashire Economic Picture and Productivity Analysis from professor Sue Smith of UCLAN and Martin Kelly from County. Leaders were asked to identify the key opportunities and challenges that we

all need to focus on to make Lancashire more economically productive, prosperous and inclusive.

A letter from Jake Berry MP was positive and clearly articulated the process for forming a combined authority and a timetable – subject to government timescales. Officers are seeking advice from civil servants on the approach to public consultation.

Lancaster and Morecambe BID and the Chamber met the Cabinet on 31 July. They updated us on their progress and we discussed their current priorities. The Council, Chamber and the BID are working together closely in view of many exciting and innovative changes to come.

Lancaster University rang to ask my opinion on their decision to stand down The Court of the University in favour of more public meetings. The decision was made earlier this year. I said that I would be sorry to lose the Court as it was a varied and inclusive body that promoted the university throughout the country and was a critical friend.

On 15 August a telephone briefing took place between the University, County, the LEP and the city to discuss our next steps with regard to the Eden Project. Since then Eden have spoken to the media about their proposals for Morecambe. At our meeting, we agreed that funding is a major challenge and that we need to approach central government. All partners are positive about the project and we will be contacting Eden and looking at other funding options to explore.

A series of briefings on Growing our Economy have taken place, enabling a wide discussion with stakeholders on developing an Economic Growth Plan for the district.

A Canal Quarter Liaison Group has been set up and will meet again in September. This is a cross-party group and I sincerely hope that we can work together on developing this important area to the benefit of the whole district.

My thanks go to all those who have organised so many events over the summer. The weather has helped a lot and our area has benefitted from a really good summer, celebrating new events such as the recent Festa Italia. Well done to all involved and thank you for your hard work.

4.0 Amendment to the Executive Scheme of Delegation – Flying of Flags

The Council receives requests each year to fly flags to support different national/international campaigns, events and organisations. Currently such requests are dealt with as Individual Cabinet Member Decisions requiring a report and Decision Notice. If the request is received at short notice, it would also be necessary to consult the Chairman of the Overview and Scrutiny Committee.

The delegation to officers which I have authorised will ensure that appropriate action can be taken without delay or the need to complete the paperwork that is necessary to implement an Individual Cabinet Member Decision. In practice, this delegation will be to Civic and Ceremonial Democratic Support Officer who will consult with the Mayor before making a decision.

5.0 Other Matters

Cabinet minutes for 3 July 2018, 7 August 2018 and 4 September are attached at the end of this agenda.

6.0 Key Decisions

The following Key Decisions were taken by Cabinet on 3 July 2018:

- (1) Coastal Revival Fund Co-Op Building Bid and Accountable Body Arrangements
- (2) Executive Team: Roles and Structure

The following Key Decisions were taken by Cabinet on 7 August 2018:

- (1) Lancaster Caton Road (Phase 3) Flood Risk Management Scheme
- (2) Budget Support Reserve – Proposed Allocations
- (3) Land forming part of Lancaster Leisure Park, off Wyresdale Road, Lancaster
- (4) Heysham Gateway

The following Key Decision were taken by Cabinet on 4 September 2018:

- (1) Review of Council Housing Tenancy Agreement – Consultation Response

There following Officer Delegated Key Decisions were taken during this period:

- (1) Smoke Alarm and CO Detector Installation
- (2) Bruntons Warehouse Internal Fire Doors and Screens
- (3) Flats Communal External Doors and Glazed Screen Replacement
- (4) Ripley Court Remodelling of Bedsits
- (5) External Works – Render & External Door Replacement Contract 2018/19
- (6) Replacement of Refuse Collection Vehicles
- (7) Supply of Geographic Information Systems and Services
- (8) Refurbishment of Refuse Collection Vehicles
- (9) Supply of Liquid Fuel to White Lund Depot

Background Papers

Cabinet agenda and minutes of the meetings held on 3 July 2018, 7 August 2018 and 4 September 2018.



**Community Governance Review of the District:
Outcome and Order to amend the name of Thurnham
Parish Council**

26 September 2018

Report of Council Business Committee

PURPOSE OF REPORT

To allow Council to consider agreeing an Order for the amendment of the name of Thurnham Parish Council to “Thurnham with Glasson Parish Council”.

This report is public.

RECOMMENDATIONS

- (1) That the creation of a Parish for Heysham is not supported.**
- (2) That no further action is taken with regard to the merging of Yealand Redmayne and Yealand Conyers Parish Councils as part of this district wide review.**
- (3) To agree the attached Order for the amendment of the name of Thurnham Parish Council to Thurnham with Glasson Parish Council.**

1.0 Background

1.1 Council, at its meeting on 27 September 2017, gave approval for the commencement of a full district Community Governance Review. Council Business Committee met on 02 November 2017, 22 February 2018 and 19 July 2018 to ensure that the timetable for the review was met and that responses received could be reported and considered.

2.0 Process

2.1 The first stage of the process was to establish the issues that were to be included in the review. Any person or organisation could submit a suggestion, and all suggestions were considered by the Council Business Committee. Three were taken forward to consultation.

2.2 A request was received for the creation of Heysham Parish Council. Canvassers were employed to visit all houses within the affected area to try to

make contact with someone within the household, and to leave literature encouraging participating in the process. Canvassers recorded verbal responses received, and written responses were also encouraged. The Council Business Committee considered all of the responses received to the consultation and recommend that they do not support the creation of Heysham Parish Council. Heysham Neighbourhood Council who submitted the original request have been advised that they are entitled to submit a petition on the same issue in the future, and guidance will be provided should they decide to proceed.

2.3 Following support from both Yealand Conyers and Yealand Redmayne Parish Councils to merge to one parish council, residents were consulted by letter to ascertain their views. At an early stage in the consultation however it was indicated that a merge may not be in the best interests of the two parishes at the present time, and a request to halt the process was received and agreed by Council Business Committee. The two parish Councils are aware that they can submit a petition at any time for the matter to be reconsidered, and guidance will be provided should they decide to proceed.

2.4 Residents of Thurnham Parish Council were consulted by letter to ask for their views on a change of name to Glasson and Thurnham Parish Council. From the responses received, Council Business Committee made a further suggestion that the name should be "Thurnham with Glasson Parish Council" and a further consultation was carried out. Council Business Committee have considered the responses received to the second consultation (which offered different alternatives) and are of the view that the suggested name of Thurnham with Glasson Parish Council should be confirmed and an order created to reflect this.

3.0 Draft Order for the renaming of Thurnham Parish Council to Thurnham with Glasson Parish Council

3.1 Attached to this report is a draft Order which, if approved by Council, would signify that there is agreement by Lancaster City Council to the amendment of the name with effect from 01 April 2019.

4.0 Conclusion

4.1 Before proposing the content of the draft Order the Council Business Committee had to be clear that the wishes of the people affected by the proposals are reflected in the outcome. DCLG Guidance on Community Governance Reviews states that in making its recommendations, the review should consider the information it has received in the form of expressions of local opinion on the matters considered by the review, representations made by local people and other interested persons, and also use its own knowledge of the area.

4.2 In making their final decisions, the Committee were also mindful of the guidance that principal councils should not feel forced to recommend that the matters included in the review must be implemented.

Sustainability and Rural Proofing):

None.

LEGAL IMPLICATIONS

Chapter 3 of Part 4 of The Local Government and Public Involvement in Health Act 2007 devolved the power to take decisions about such matters such as the creation of parishes and their electoral arrangements to local government and local communities in England. Principal councils are required, by Section 100(4) of the 2007 Act, to have regard to guidance issued by the Secretary of State when undertaking reviews and the guidance has been followed in drafting this report to Council.

FINANCIAL IMPLICATIONS

An amount of £10,000 was included in the 2017/2018 budget and £25,000 in the 2018/2019 budget in order to resource this project. The costs of carrying out the consultations have been met within the budget provision that has been allocated. Reaching a decision by October 2018 should allow sufficient time for council tax records to be updated prior to the release of the 2019/2020 charge notices. It is expected that the amendment of Council tax records should cost no more than £10,000 and sufficient funding for this has been included within the budget allocation for 2019/2020.

OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces:

None.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no comments.

BACKGROUND PAPERS

Council Business Committee Agenda and Minutes 19 July 2018

Contact Officer: Lisa Vines

Telephone: 01524 582070

E-mail: lvines@lancaster.gov.uk

Ref:

LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

The Lancaster City Council (Reorganisation of Community Governance) Order 2018

Made this 30th September 2018

Coming into force in accordance with article 1(2)

Lancaster City Council (“the council”), in accordance with section 83 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) has undertaken a community governance review and made recommendations dated 26th September 2018.

The council has decided to give effect to those recommendations and, in accordance with section 93 of the 2007 Act, has consulted with the local government electors and other interested persons and has had regard to the need to secure that community governance reflects the identities and interests of the community and is effective and convenient:

The Council, in accordance with section 100 of the 2007 Act, has had regard to guidance issued under that section:

The council makes the following Order in exercise of the powers conferred by sections 86, 98(3), 98(4), 98(6) and 240(10) of the 2007 Act.

Citation and Commencement

1. (1) This Order may be cited as the Lancaster City Council (Reorganisation of Community Governance) Order 2018.
- (2) This Order shall come into force on 1st April 2019.
- (3) For the purposes of article 6, this order shall come into force on the day after which it is made.

Interpretation

2. In this order –

“City” means the City of Lancaster;

“map” means the map marked “Map referred to in the Lancaster City Council (Reorganisation of Community Governance) Order 2018” and deposited in accordance with section 96(4) of the 2007 Act: and any reference to a numbered sheet is a reference to the sheet of the map which bears that number;

“registration officer” means an officer appointed for the purpose of, and in accordance with, section 8 of the Representation of the People Act 1983.

Effect of this order

3. This Order has effect subject to any agreement under section 99 (agreements about incidental matters) of the Local Government and Public Involvement in Health Act 2007 relevant to any provision of this Order.

Change of name of Thurnham Parish Council

4. Thurnham Parish Council, comprising the area outlined with a black line on the map, shall be known as Thurnham with Glasson Parish Council.

Parish Precept

5. The Parish precept is unaffected by this change.

Electoral Register

6. The registration office for the City shall make such rearrangement of, or adaptation of, the register of local government electors as may be necessary for the purposes of, and in consequence of, this Order.

Order date

7. 1st April 2019 is the order date for the purposes of the Local Government (Parishes and Parish Councils) (England) Regulations 2008.

IN WITNESS whereof the Common Seal of)

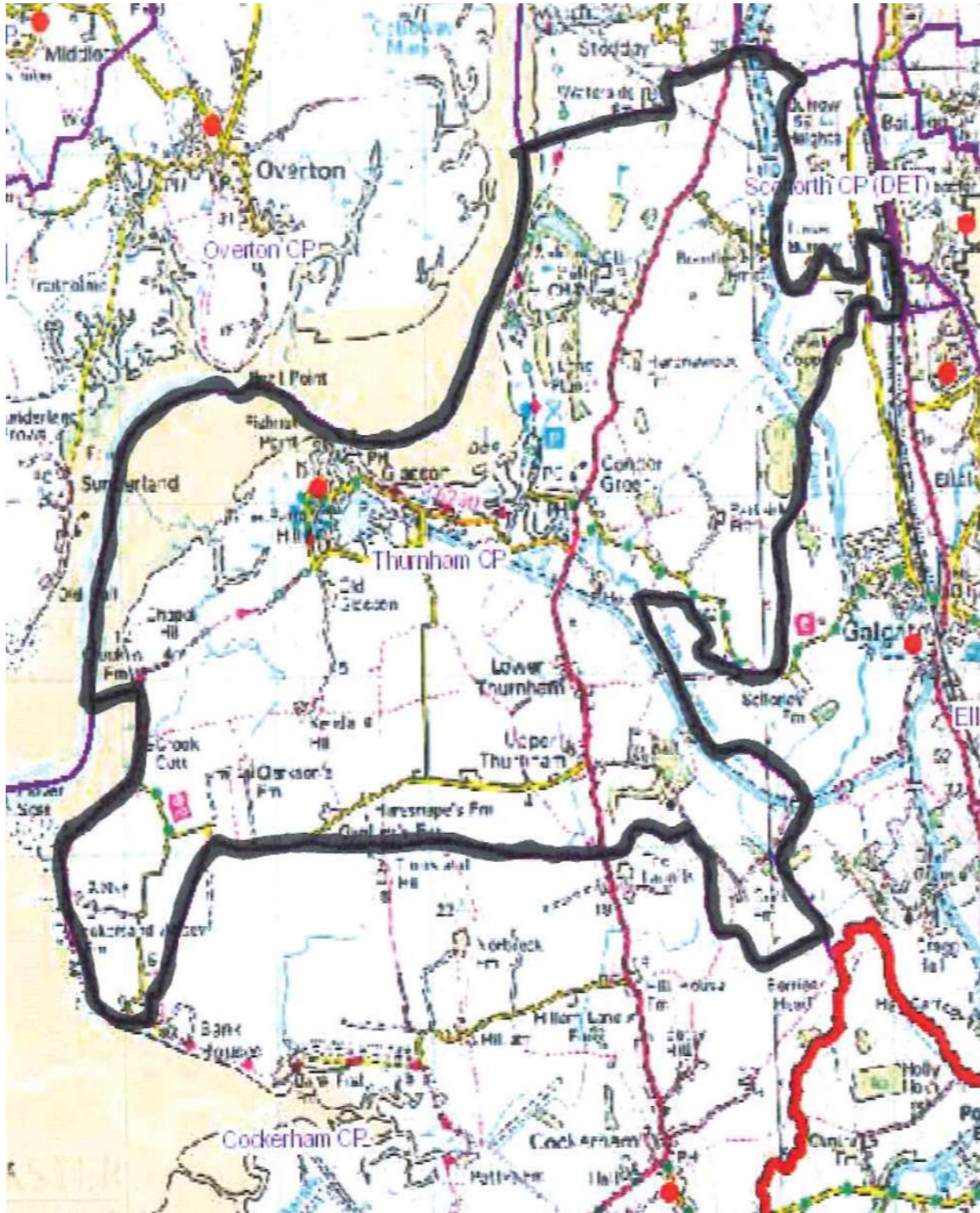
Lancaster City Council was hereunto affixed)

in the presence of :-)

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Chief Officer

OUTLINE AREA OF THURNHAM WITH GLASSON PARISH COUNCIL
EFFECTIVE FROM 01 APRIL 2019



COUNCIL

Review of the Council’s Constitution: Update

26 September 2018

Report of the Constitutional Working Group

PURPOSE OF REPORT

To seek Council’s agreement to the policy and approach set out in appendix 1 to the report.

This report is public

RECOMMENDATIONS

- 1) That Council approves the approach to the review of the constitution as set out by Bevan Brittan and the policy proposals recommended by the Council’s sub committee**
- 2) Approve Appendix 1 as key policy principles**
- 3) Approve the approach set out in the report of Bevan Brittan at Appendix 3**

1.0 Introduction

On 14 May 2018, full council created a Sub Committee to consider the full review of the constitution. There are a number of reasons articulated for the review which reflect the standpoints of Members and Officers. This policy overview attempts to balance the views at a policy level to allow the development of the detailed administrative policy moving forward.

The policy proposals set out in the paper will set the parameters for the detailed administrative policy. For example, if Council approves the policy concept of a digital friendly constitution, then the detailed administrative policy will reflect a bias to digital working, online and other technological solutions, paper reduction etc.

It is not possible to foresee all the detailed administrative impacts. Council must be prepared to accept that there will be different elements preferred by members and officers depending on their perspective. The development of the Constitution will require consensus and acceptance that it is unlikely to please all of the people all of the time.

2.0 Proposal

Appendix 1 deals with the policy considerations and gives some limited examples of how the policy may be reflected in the administrative side.

The subcommittee has considered some of the administrative policy impacts which often reflect member and officer comments. The detailed administrative policy will be developed based on the policy concepts agreed by Council. It is not possible to indicate the detail of the administrative policy until work commences on that part.

Additionally, the subcommittee has commenced consideration of some of the conventions that the chamber has adopted over time, and will in due course be proposing if these conventions should be incorporated into the constitution, abandoned entirely or recorded to aid mutual understanding of business.

3.0 Considerations

Council is asked to give careful consideration to the policy proposals as they will shape the new constitution, and administration of the authority. Council will be reassured that the Sub Committee will have oversight in accordance with attached timeline document Appendix 2 and any final decision will fall to full council.

The Sub Committee has already noted the contents of the Beven Brittan proposal and has agreed the structure outlined in the contents page. This is the spine, or skeleton, of the approach upon which the flesh of the administrative detail will be hung.

Each policy decision will have a myriad of consequential impacts at the detailed administrative stage, the decisions for a digital approach will impact not only on how members access council information but also the basic design and usability of documents. This may well set the agenda for future digital documents so that member interest forms are completed online and so on.

Policy decisions relating to the functioning of overview and scrutiny, how it is constituted, work stream and resources are likely to influence the approach for several years and Council is asked to have particular regard to Appendix 1 as the high level policy recommendations are the basis upon which officers will interpret all the later decisions.

The timeline document allows for the decision on the policy issues and then several months for the detailed administrative policy to be formulated before a return to full council.

Additionally work has continued to ensure the constitution remains functional following the senior management restructuring and it is now likely the interim constitution reflecting the new management structure will be available for full Council consideration in November.

It is also apparent that full Council has over time adopted conventions of its own. These conventions reflect custom and practice over some time. An attempt to capture the conventions has been made but the knowledge and detail will be added to by the subcommittee before final approval is sought.

4.0 Conclusion

Council is invited to

- agree the recommendations of the Constitutional Sub Committee;
- agree the policy issues in appendix 1; and
- note the initial areas of administrative policy development.

**CONCLUSION OF IMPACT ASSESSMENT
(including Health and Safety, Equality and Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

The policy proposals as set out do not directly impact on issues of diversity. Equality, Human Rights, lawfulness are essential elements of the constitution, the draft when produced and final incarnations of will require a formal assessment for equality, human rights and lawfulness. For example, a decision to follow a digital path, opens many doors to improved accessibility of documents but equally must ensure those less familiar with technology are also supported.

FINANCIAL IMPLICATIONS

There will be a cost in officer time for the creation, and detailed administrative policy creation and the subsequent proofing and development of the constitution. This reflects a significant application of resource from departments through the development phase however it is expected that this will be met from within existing resources. The implications of this report will be to commence the second phase of constitutional review, incurring the remaining allocation of the budgeted expenditure on external support. (A growth amount of £20k was agreed by Council on 28th February, 2018 for Review of the Council Constitution, as part of the 2018/19 budget process).

LEGAL IMPLICATIONS

The constitution reflects the core values and governance of the organisation. The Constitution provides the boundaries between the different structure of governance, Council, Cabinet and Committees, and the distinction of officer and members functions. The Constitution further sets the engagement with citizens, their rights to engage in the process, transparency and democratic accountability.

SECTION 151 OFFICER’S COMMENTS

The Section 151 Officer has been consulted and has no comments.

MONITORING OFFICER’S COMMENTS

The Monitoring Officer has drafted this report on behalf of the Sub-Committee.

BACKGROUND PAPERS

Contact Officer: Debbie Chambers
dchambers@lancaster.gov.uk
 01524 582057

Appendix 1 Political and Social Policy Considerations

Purpose	Key Issue	Impact and examples	Cost Impact
Make the document digitally accessible	It is proposed we should make the constitution as accessible as possible. The approach to drafting is to make the constitution 'digitally' compatible so that it can be easily read on screen and that wherever possible appendices and none core documents are cross referenced to digital media sources such as the City Council's web site.	This will set a policy of digital working for Members and Officers. There are constitutional and legal requirements that will be primarily digital which will include, declarations of interests, notifications, codes of conduct etc. This will then clearly cross reference to mod.gov for digital copies of papers and agendas. Reduce printed waste. Improve accessibility for the general public. N.B. members have informed Democratic Services they have been using paper versions, (last issued by LCC in 2015).	Reduce paper and ensure member allowance is used appropriately for printing and support
Reduce unnecessary administration costs associated with decision making	Reduce the number of Committees. Review Terms of Reference and the number of 'noting' papers. Members can be more efficiently briefed outside of committee.	Reduce administrative burdens of non-productive officer support to committees and 'noting' papers. Members to attend briefing sessions. Remove duplication of officer serviced groups. Review efficiency of committees, in particular i) options for noting papers. ii) options for merging some committees eg. Licensing Reg & Act. iii) review of how Overview & Scrutiny and Budget & Performance fulfil their scrutiny function and an increase in size and frequency of meetings in the event of integration of the committee and panel.	Reduce number of cancelled or non decision making meetings or committees, reduce member and officer non-productive time.
Reduce unnecessary administration costs associated with decision making	Clarity on Policy frameworks and delegations to the executive function. Increase clarity of delegations. Key decision definition to be reviewed.	Delegation described by posts for officers. Increase. Chief Officers/Directors delegation to £150k. On issues that are clearly within the policy framework, outside funding bids etc. to be delegated to Officer/Cabinet Member.	Reduce the number of low value decision papers.
Improve speed, flexibility and resilience in decision making.	Focus Member involvement to key issues where they can best add value and make decisions.	Clear distinction between Member policy decisions and operational and officer decision.	Quicker decisions at lower cost
Improve speed, flexibility and resilience in decision making	Update to contract procedure rules to ensure a streamlined value for money process.	Reduce the detail in the constitution and provide secondary guidance to cover process issues	Provide the ability to update process as needed whilst constitutional authority is retained.
Improve speed, flexibility and resilience in decision making	Improve clarity of delegation for Non-Executive functions	Provide clear authority by officer/role and route for delegation to other officers on regulatory and other non-executive functions.	Allow for rapid decision making for regulatory services such as

Appendix 1 Political and Social Policy Considerations

		Give legal certainty to outcomes	Fly tipping/Anti-social behaviour
Improve speed, flexibility and resilience in decision making	Members code of conduct review	Update code of conduct and process. Include GDPR compliance Disclosure of relationships, etc.	Streamline process and reduce cost
Transparency and Accountability	Capturing information from Members and Officers, in a straight to digital format.	Online procedure for recording and publishing gifts, declarations etc.	Streamline process and reduce cost
Improve performance and efficiency.	Member training on governance, decision making, budget, financial and service resilience.	Compulsory training to be completed for members of all committees. On line training through learning portal where possible. This should support effectiveness of appointments to outside bodies. Publish members training attendance.	Ensure public funds achieve value for money
Improve performance and efficiency	Update to the media engagement policy, to ensure adequate social media guidance.	Policy to sit alongside constitution with other codes of conduct	Improved more efficient communications with citizens
Transparency and Accountability	Improved rules for sharing of information by cabinet with a pre-scrutiny function. Review procedures for O & S and call in.	To better inform scrutiny and avoid unnecessary call in. Improve the understanding of O & S critical friend function. To improve the quality and focus of debate. Consider resource allocation to O & S	Value for money
Transparency and Accountability	Review of all information sharing provisions.	Current amendments to the constitution are not fully aligned with the common law rules, or human rights, and potential GDPR conflicts	Legal compliance and risk management
Transparency and Accountability	Review the procedure rules for council.	Improve the quality and focus of debate, amending motions.	Streamline decision making, reduce procedural delay and reduce cost
Transparency and Accountability	Clarify the distinctions between the roles of cabinet and council.	Review Article 4 define what policy is included in the framework documents, and what is the status of many resolutions in the chamber.	Streamline process and reduce cost and ensure decisions are made in the right forum reducing risk of challenge.
Transparency and Accountability	Clarify the function of Cabinet Liaison Groups.	Improved clarity and consistency of approach so that all members have a common understanding	Better informed Cabinet decisions at lower cost
Transparency and Accountability	Clarify the distinction and definitions on Individual Cabinet Member Decisions and	Consider the need to increase and review the delegations to individual Cabinet Members..	Streamlined process and reduced costs.

Appendix 1 Political and Social Policy Considerations

	increase delegations to ensure decisions are made at the correct level.		
Improve speed, flexibility and resilience in decision making	Align all the financial values and review across the Council's Financial Regulations, including the Contract Procedure Rules, and the Treasury Management Framework	The values are too low to enable effective operational management.	Streamlined process and reduced costs.
Improve the quality of debate in the chamber	Reduce the number of senior officers attending full council to the chief executive, monitoring officer and senior financial officer (s.151)	Encourage early questioning and attendance at briefing sessions by members. Maintain the debate at political policy level and avoid detailed operational decision questions and the consequential lengthy explanation by non-members in full council. The chamber is the members' opportunity to hold members to account not a forum for questioning officers.	Reduce cost of officer time.

DATE	ACTIVITY	<i>Parallel work</i>	<i>OFFICER</i>
	PROPOSED TIMELINE		
10 July 18	Sub Committee	<i>Recruit intern for project interviews 11 July</i>	
	Clarity on roles and approach Approval timeline Agree commencement of Bevan Brittan work stream. Agree in principle online/paper split what is in the constitution and what is a supporting document.		
18 July 18	FULL COUNCIL		
	Senior management restructure Urgent review of constitution to implement new structure		
28 Aug 18	Sub Committee		
28 Aug 18	Report for Council on policy proposals Update on the interim constitutional provision. Confirm approach to Council		
4 Sept 18	CABINET		
26 Sept 18	FULL COUNCIL		
	Policy proposals considered at full council Report on Phase 1 (interim) constitutional amendments taken to Council giving effect to the new structure.		
2 Oct 2018	Sub Committee		
	Confirm Bevan Brittan Work Stream on main constitution review. Confirm interim constitution approach a) Delegations b) Articles c) Procedure rules etc		
1 Nov 18	Sub Committee		
	Review progress by Bevan Brittan		

	Decide any issue raised in phase 2 by Bevan Brittan		
14 Nov 18	FULL COUNCIL		
	Report on (interim) constitutional amendments taken to Council giving effect to the new management structure. Any further policy approvals considered		
14 Dec 18	Sub Committee		
	Working draft shared for comments		
	Commence Member and Officer Consultation		
19 Dec 18	FULL COUNCIL		
10 Jan 19	Paper deadline for Cabinet 12/2/19		
	Updating to draft following consultation, fine tuning and editing		
30 Jan 19	FULL COUNCIL		
31 Jan 19	Paper deadline for Council 27/2/19		
12 Feb 19	CABINET		
	Cabinet notes new constitution		
14 Feb 18	Sub Committee considers final version new constitution and decides on recommendation to Full Council.		
	Recommendations on adoption, further review etc.		
27 Feb 19	FULL COUNCIL BUDGET		
10 April	FULL COUNCIL PRIOR TO ELECTION		
	Approval of new constitution.		

Lancaster City Council
Advice Note – Summary of Constitutional Review
28 February 2018

DRAFT



CONSTITUTION REVIEW**1 ADVICE REQUESTED**

- 1.1 Lancaster City Council ("the Council") has commissioned Bevan Brittan LLP to carry out a review and health-check of its Constitution. Bevan Brittan is a law firm with significant experience of advising local authorities on all aspects of governance and decision making. We have undertaken many reviews of constitutions for council clients.
- 1.2 The Council wishes to have a review of compliance with legislative provisions and best practice with a view to developing a clearer, more succinct Constitution which is accessible, up to date and will incorporate changes to modernise the document and make it easier to use.
- 1.3 Often we find that the issues which prompt a constitutional review include several of the following:
- A document which has grown over years and is not internally consistent;
 - Desire to have a more easily understandable document that meets the needs of officers in particular;
 - Concern at legal compliance and the extensive list of statutory references;
 - Recognition that the constitution is not best serving the interests of the Council to deliver consistent, efficient and effective decision making;
 - An unwieldy document that could be simplified;
 - Change in personalities and loss of corporate knowledge about why things are where within the constitution or done in a particular way;
 - A structure which requires significant maintenance and is not future proof, with a need for many changes to be approved by Council;
 - Opportunities to reduce bureaucracy;
 - Desire to have a more living, working document.
- 1.4 The purpose of the current Constitution is stated in Article 1 to be as follows, to:
- "Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisation.
 - Assist the Council in promoting economic, social and environmental well being.
 - Provide a means of improving the delivery of services to the community.
 - Support the active involvement of citizens in the process of Local Authority decision making.
 - Help Councillors represent their constituents more effectively.
 - Enable decisions to be taken efficiently, effectively and impartially.
 - Create a powerful and effective means of holding decision-makers to public account.;
 - Ensure that no individual will be involved in reviewing or scrutinising a decision which they took or took part in.

- Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons *for decisions*.

1.5 The above are drafted based upon the Model Constitution, but in practice we are not convinced that the current Constitution does the above (nor would any constitution, unless it was much more citizen (or public) focussed).

1.6 The current structure is based upon the Model Constitution and is somewhat chunky and repetitive – further details of which are set out below, along with recommendations for change. Adopting our recommendations would make it easier for members of the public to navigate the Council's constitution and to make sense of how the Council operates, if the document is stripped back to the key elements and hyperlinks to relevant parts of the Council's website.

2 CONTEXT

2.1 The Council has articulated four priorities and summarises the key outcomes it aspires to deliver in each area in a Corporate Plan. These are:

- clean, green and safe;
- health and wellbeing;
- sustainable economic development/growth; and
- community leadership.

2.2 An LGA peer review was undertaken in 2015 and reported on the above and the key challenges facing the Council. The review noted the 2015 election result that led to a new minority Labour administration after many years of no overall control. Noting an experienced Leader and Chief Executive with almost half of the Council's members being new members (27 out of 60) the report suggested a range of steps be taken in relation to governance and decision-making, including:

- More power be delegated to individual Cabinet Members to accelerate the pace of decision-making and strengthen the accountability of individual members;
- Informal Cabinet meetings with senior members to explore policy options on major decisions and seek to build consensus before reports go to cabinet;
- More joint working between members and Officers on policy issues;
- Greater attention to risk management and consider the Council's appetite for risk;
- Better use to be made of Overview and Scrutiny, especially more proactive involvement in policy development, exploring different options;
- Greater investment in the digital agenda (particularly in view of the potential for savings and ability to access services for a rural community) with an appointment of a digital champion to retain strong and political oversight.

The report recognised the linkages with the Universities of Lancaster and Cumbria (which may be able to assist on the digital agenda). Some of the above issues could be reflected in any new constitution developed for the Council.

2.3 The Council produced an action Plan that was last updated in February 2017. The Action Plan suggests that the Council should, in particular consider:

- Review the scheme of delegation following appointment of Chief Officer: Legal and Governance;

- Does the Leader/Cabinet want further delegation?;
- Review definition of key decisions – look at criteria for level of decision taking into account risk;
- Agree what a proportionate approach to risk management looks like; and
- Changes to the operation of Overview and Scrutiny to be proposed through the Council Business Committee

2.4 Additionally it is apparent from the Council's constitution that parts have developed piecemeal and in parts unusually with things like "proportional representation" or PR replacing "political balance" and that certain practices (such as Questions of Officers at Council without notice or time limit) are not necessarily conducive to good governance, especially where Officers are not aware of the particular facts and circumstances of the case – this could be seen as undermining of Officers.. There is no procedure for this in the Constitution and seems to have arisen through convention. Members have every opportunity to raise issues with Officers outside of Council meetings – that is not the forum within which to "spring" questions upon them. There is less of an issue asking questions of an Officer where there has been an officer briefing note but Members should remember that Council is their forum for discussion and debate.

2.5 The Council will shortly face further elections for all members on 3rd May 2018 as it operates all out elections every four years.

3 THE REVIEW

3.1 This report considers the findings of our review and makes suggestions as to how the Constitution could be changed. Judith Barnes attended a meeting at the Council's Offices with the Monitoring Officer, other senior managers and three councillors on 28 November, 2017. The report will look at the legislative requirements placed upon the Council and then consider how the Constitution compares and then how it could be shortened, streamlined and improved.

3.2 A local authority is under a duty to prepare and keep up to date its constitution under section 9P Local Government Act 2000 as amended. The Constitution must contain:

- the Council's standing orders/procedure rules;
- the members' code of conduct;
- such information as the Secretary of State may direct;
- such other information (if any) as the authority considers appropriate.

3.3 A Constitution Direction was issued by the Secretary of State in December 2000 that required around 80 matters to be included within constitutions, covering members' allowances schemes, details of procedures for meetings, details of joint arrangements with other local authorities and a description of the rights of inhabitants of the area, amongst other things. Whilst issued under Part II Local Government Act 2000 the Direction survives the re-enactment into Part 1A (section 9B et seq.) of the 2000 Act by the Localism Act 2011 (under section 17 Interpretation Act 1978).

3.4 Constitutions must be available for inspection at all reasonable hours by members of the public and supplied to anyone who asks for a copy on payment of a reasonable fee.

3.5 The Council's Constitution currently comprises 11 Parts (many divided into a number of sections). In total there are at least 57 sections and schedules, but the contents page refers only to the 11 parts. Each part of the Constitution has its own index, which is helpful. However, if a member of the public did not already know which part to look in, it would be difficult to locate a specific section of the Constitution. The Council's Constitution can be found at the following link:

<https://committeeadmin.lancaster.gov.uk/ecCatDisplay.aspx?sch=doc&cat=219&path=0>. Distinct documents for each Part of the Constitution makes navigation of the document difficult for those who are familiar with it and virtually impossible where there is no familiarity and/or cross-references are essential to a complete understanding. The lack of a whole constitution or fewer parts (perhaps three or four significant chunks) means that it is impossible to use an electronic search facility to find things easily and the effect of this is that members of the public will be unable to readily comprehend the document. For example, Part 4 (Procedure Rules) comprises 10 separate PDF documents.

3.6 The Constitution appears to have developed over time with amendments that are not always consistent in approach and in some areas there are provisions that are effectively guidance or explanation that whilst in themselves are helpful documents, do not need to be within the constitution (e.g. the Press and Media Guidelines). Since the Constitution must be adopted by resolution of Council changes to such guidance or explanation may only be approved by resolution of Council, unless enhanced delegated powers are given to make changes. Should such guidelines sit outside of the constitution then it would be easier to amend and update them. Such documents could be hyperlinked to the intranet or the web rather than being lost altogether, in the same way that links could be provided to the existing web pages outlining individual Councillors, their wards and interests etc.

3.7 Additionally in meeting with the Council other issues were identified:

- Desire to have a more easily understandable document that meets the needs of members and officers in particular but also the public, which will improve opportunities for public engagement, and give the public greater rights to address the Council, question Councillors and seek redress.
- Provide greater transparency
- Update the Press and Media Guidelines
- Desire to streamline arrangements
- Desire to have a more uniform approach to scrutiny across the Council, rather than focusing on Cabinet Members, as is currently the case.
- The Constitution has been added to and revised on a piecemeal basis and is no longer internally consistent. It needs to be simpler, easy for Councillors to use, and give clear rights to the public which they are able to exercise.
- There is support to remove the Articles (although some content will need to be retained, perhaps by being moved elsewhere).
- Powers and delegations are currently diffuse throughout various parts of the Constitution.
- There is no Proper Officer register.
- Various parts of the Constitution require updating:
 - Legislation
 - Delegations
 - Management Structure (including removing reference to officer roles which no longer exist).
- The lists of Officers and Members within the Constitution require regular updating, which imposes an administrative burden on the Council.
- We have also seen more detailed comments on the:
 - Council Procedure Rules
 - Planning and Highways Regulatory Committee Procedure Rules

3.8 A list of issues was presented from both Member and Officer comments. A review of the Constitution may also bring opportunities for an objective view of potential changes and streamlining of functions that could improve efficiency and effectiveness, perhaps reducing the number of decision-making bodies.

3.9 Under Article 14 of the Constitution 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."

4 OVERALL CONCLUSIONS OF THE REVIEW

- 4.1 Overall we have found that the Council's Constitution to be largely legally compliant and is, certainly compared to a number of other Constitutions we have seen and reviewed, well drafted and reasonably clear, except in relation to the delegation of functions which are too dispersed throughout different segments of the Constitution.
- 4.2 Attached to this report are also:-
- 4.2.1 A compliance checklist (**Appendix One**) showing how and where the Constitution complies with the relevant statutory requirements in the Constitution Direction and identifying areas requiring review/updating; and
- 4.2.2 A proposed contents page for the new Constitution (**Appendix Two**).
- 4.3 There are a few areas where further information is required to be contained in the Constitution to meet the statutory requirements (see Appendix One) and a number of legislative references need updating, but these should be easily remedied.
- 4.4 At 312 pages, it is not unduly long. However, it comprises 57 separate sections/documents and there are a number of aspects that we consider could be improved. We consider that an updated slimmed down version would better fit the way the Council intends to operate and would achieve the stated aims and issues above. Our report goes on to identify these aspects and suggest a way forward.
- 4.5 In our experience, members and officers can give considerable weight to the impact a revised Constitution can have on the operation and culture of a council and can focus hopes for change on the production of a revised document. Whilst we absolutely agree that a robust and effective Constitution can make a real difference to the operation and governance of a council, it is, on its own, not sufficient to change ways of working, established behaviours or ingrained approaches. The actual process of production of a new Constitution can be very powerful in providing an opportunity for open debate about the fundamental issues of how the Council operates and the development of a Constitution which reflects this (and which has buy in from all stakeholders) can set the ground rules for how the Council operates. Joint discussion on a new constitution may help to start building more trust between members and officers.
- 4.6 In terms of aspects of the Constitution which we have identified as needing particular focus, the following four areas should be addressed:-
- Form and Structure
 - Accuracy, updating and future proofing
 - Decision Making
 - Member bodies
 - Officer delegations
 - Procedure rules
 - Budget and Policy Framework and Financial Procedure Rules
- 4.7 It would be useful to test our recommendations with senior officers and possibly interested members, perhaps through an informal member and officer working group and/or engagement of members through the Constitution Committee to enable members to contribute from the outset to the proposed changes.

5 FORM AND STRUCTURE OF THE CONSTITUTION

- 5.1 Whilst based on the Model constitution, the Council's constitution does not read as a modern document and could be improved significantly through the use of more modern language, web links and better presentation in a revised structure. The Introduction is well-written but would benefit from some more information about how the Council works being drawn from the Articles to give a more comprehensive picture.
- 5.2 By having a general summary in the Introduction, then the Articles, then substantive sections, things are often stated three or more times, often in slightly different ways and it is very difficult to be certain that the full picture is being presented on any issue without exhaustive searching. This should all be cut down and assimilated into a much clearer document. For example there are 73 separate references to "Key Decisions".
- 5.3 As part of this exercise the Constitution should be rigorously edited to remove repetition and to make it more user friendly. We would recommend that the Council removes the Articles (30 pages) from the Constitution. This will reduce repetition from the Constitution since much of the Articles are replicated elsewhere. Some of the content of the Articles will need to be moved to other parts of the Constitution (for example Article 11 could appear within the Responsibilities for Functions section). We also recommend that the Terms of Reference of all Committees should be together and in the same style/format. Experience tells us that the content of the Articles should be carefully mapped so that Members can see where provisions have been moved to other parts of the Constitution. We make our suggestions in detail in the table below.
- 5.4 There is much in the Constitution which is important for the Council to have somewhere, but need not be contained in this document. Policies and procedures etc can be referenced through web links which would make the whole document less daunting and unwieldy and, if they are not a formal part of the Constitution, allows them more easily to be updated/refreshed. We would suggest that the Council could consider removing the following parts of the Constitution:
- Part 2 – The Articles
 - Part 10 – Petition Scheme – these are no longer required by law
 - Part 6(3) – Appointments and Designations e.g. Calculation of PR – there are regulations that govern the calculations – this "guidance" could be on the web or just circulated to the Groups before Annual Council.
- 5.5 This will all make it more accessible to its users who include:
- The public
 - Members
 - Officers
 - Partners and stakeholders of the Council

6 ACCURACY, UPDATING AND FUTURE PROOFING

- 6.1 The Management Structure at Part 9 includes a number of named officers. Whilst it can be useful to name senior officers, we would not recommend referring to such a large number of officers by name. We would query whether keeping this up to date will be a significant and unnecessary administrative burden. We suggest that this structure could appear on the Intranet (updated as necessary, but the version in the Constitution only relates to the top three tiers of staff with post titles (and without names if desired). We also note that the Management Structure as it appears in the Constitution appears to be as at August 2013.

- 6.2 Local authority arrangements do change and whilst this means Constitutions have to be updated, this should not be a constant exercise. The drafting should be future proofed so changes in post holders, legislation etc should not, of themselves, trigger a redraft.
- 6.3 Whilst the current Constitution is largely up to date, a number of statutory and legislative references need to be updated throughout the document (e.g. references to sections 9A et seq. Local Government Act 2000 in Part 1A rather than sections in Part II of the Act). In Part 3, Section 1 – Council at paragraph 1.17 the Local Authorities (Alcohol Consumption in Designated Public Places) 2001 have been superseded by the Local Authorities (Alcohol Consumption in Designated Public Places) 2007.
- 6.4 We consider that the Scheme of Delegations in the Constitution could also be made clearer by being more generic and wide-ranging and this would also make the document more manageable and future-proof as it should cover future changes to service specific legislation.
- 6.5 A shorter, more accessible document will make it easier for any changes to be considered carefully, implemented clearly and for there to be a robust system of version control and explanation to all users of what changes have been made any why.
- 6.6 We would also recommend that the Monitoring Officer be provided with greater delegation to make changes to include changes which improve drafting and clarity and efficiency of operations. Such powers could require all members to be notified of the changes made as and when they are undertaken. At present the Monitoring Officer is limited to making changes which either (a) keep the Constitution up to date, or (b) implement agreed consequential amendments as a result of Council decisions. We do, however, note that the Monitoring Officer has additional powers to amend the Scheme of Delegation to re-distribute existing delegations.

7 DECISION MAKING

- 7.1 A key part of the Constitution (and which sets the tone for the culture the Council wishes to operate) is how decisions are taken. This includes the balance between:
- Cabinet collective decision making or powers of the Leader (as individual portfolio holders do not have delegated powers); and
 - Member decision making or officer delegation.
- 7.2 The right balance must also be struck in the Constitution to ensure:
- Recognition that the Council is a member-led authority;
 - Appropriate transparency and involvement in decision making;
 - Efficiency of business; and
 - The ability to respond swiftly to events (whilst ensuring probity and checks and balances).
- 7.3 Many provisions cross refer to numerous Parts of the Constitution (including the Articles) and are not therefore standalone sections, meaning there is a need to go in and out of documents to be sure of compliance with all requirements of the Constitution.
- 7.4 In **Part 3, Section 2 - Local Choice Functions** have been allocated to Cabinet. We consider that this list be reviewed in detail to see how it sits along further delegations. For example, "any function related to contaminated land" is exercisable by Cabinet, but contaminated land is also listed under the functions of the Licensing Regulatory Committee. The same point applies to air quality. There needs to be certainty as to whether they are executive or non-executive functions.
- 7.5 In **Part 5 and later Parts** (e.g. the Officer Employment Procedure Rules) specific provisions require updating regarding staff matters and these are prescribed in more detail in Appendix One. This is

largely to deal with the requirements of the Local Authorities (Standing Orders) Amendment Regulations 2015 and the new Chief Executive and Chief Officers Terms and Conditions of Service issued in 2017. The Independent Person(s) need to be established as a separate Panel under s.102(4) of the Local Government Act 1972 from the Investigation and Disciplinary Committee in order to marry up with the latest JNC Terms and Conditions of Service for Chief Executives and Chief Officers.

7.6 In respect of **Part 3, Section 14, the Scheme of Delegation**, we note that the Constitution makes a distinction between executive and non-executive functions, and it is this distinction which dictates the structure of this section. It is then further divided by delegating bodies. Whilst there is a logic to this approach, it does make it difficult to see who is responsible for what. For example, powers are delegated to Chief Executive (alone) in six different places in the Scheme of Delegation. There is no obligation to split the officer delegations.

7.7 We make the following additional observations and recommendations:

- We note that the Scheme of Delegation does not include a general power for officers to further delegate to other officers. The Scheme of Delegation does provide specific powers for Senior Officers to designate staff to exercise certain powers.
- In the absence of the Chief Executive any delegation to the Chief Executive can be exercised by a Chief Officer. This is vague and will create uncertainty about who is the correct person to take decisions in the Chief Executive's absence – is it anyone on Chief Officer Terms and Conditions of service?. We suggest either naming a particular officer as Deputy in the absence of the Chief Executive (or any of the Statutory Officers) or creating a hierarchy of officers who can exercise this power.
- Under the Executive Functions – Matters of Urgency section there are powers relating to day to day running of the Council. We would not consider that these would usually be considered matters of urgency, and they would sit better elsewhere.
- There is no Proper Officer list as required under the Local Government Act 1972.

7.8 Areas for further inclusion could include:

- Powers for the Chief Executive to exercise all officer delegated functions in the absence of relevant officers
- Powers for the Chief Executive to exercise all executive functions where the Council has not elected a Leader and the post is vacant
- Powers for the Chief Executive and Chief/Statutory Officers to take urgent action (other than those functions which by law must be reserved to a member body e.g. setting the budget at full Council) subject to a suitable reporting process to appropriate members, where considered to be in the best interests of the Council
- Powers to implement decisions and take all necessary actions to implement executive and non-executive decisions
- Powers to manage the finances of the relevant service including setting relevant fees and charges in consultation with the relevant portfolio-holder or Chair of Committee
- Powers to supply other public authorities pursuant to the Local Authorities (Goods and Services) Act 1970 (potentially over a significant financial threshold requiring a Business Case) or companies/corporate bodies that the Council is involved in (whether by shareholding, membership or appointing persons to the Board/Management Committee)
- To take all relevant regulatory and enforcement action in connection with the exercise of functions, including without limitation, issuing any form of Notice, Order, Caution, an Injunction

or authorising the commencement of prosecution or other proceedings (Monitoring Officer and designated other Chief Officers for Planning and Environment or Resources etc.?)

- Wider powers for the Chief Executive/Monitoring Officer to authorise the settlement, withdrawal from or discontinuance of any proceedings or claim against the Council (including staffing matters and maladministration) in consultation with the Chief Finance Officer and relevant portfolio holder/ward member.

- 7.9 Generally under **Part 4, the Scheme of Delegation**, we would recommend that less reliance is placed upon specific legislative references. This is particularly the case in respect of the Licensing Regulatory Committee, the Licensing Act Committee, the Licensing Act Sub- Committee and the Planning and Highways Regulatory Committee. The exception to this would be Proper Officer references, which it may be helpful to identify elsewhere as well as under the existing corporate/Head of Legal references.
- 7.10 It is not clear which officer is responsible for Data Protection. The Constitution does refer in two places to an "Information Management Officer" but it does not make it clear who will perform this role. We note that the Council's Data Protection Policy refers to the Information Management Officer as being the Head of Governance. We also note that the policy is dated 2011 and does not appear to have been signed off by the Management Team. We recommend that the Council carries out a review to ensure that its data protection policies reflect the requirements of the General Data Protection Regulation 2016 which comes into force in May 2018.
- 7.11 The **Joint Arrangements in Article 10** summarises the Council's joint arrangements well and would benefit from expansion and hyperlinks to relevant web pages established for each of the joint functions, particularly to meet the requirements of the Constitution Direction at "r" in Appendix One, requiring inclusion of Terms of Reference, membership, etc. It is not clear from the Constitution as it is currently drafted what if any joint arrangements the Council has in place.
- 7.12 Paragraph 10.04(c) of Article 10 should be amended to make it clear that where another authority proposes to delegate an *executive* function to the Council then it should be the Council's Executive which takes the decision as to whether to accept that delegation and also to refer to mixed function Joint Committees.
- 7.13 In relation to the **Council Procedure Rules in Part 4, Section 1**, we would not make many significant suggestions for changes to the content which we consider are generally clear and comprehensive, although would reflect that:
- Paragraph 1.1(f) states that the Annual Meeting elects the Leader. It could be made clear that the Leader is elected for four years. The current drafting suggests that the election of the Leader is an annual occurrence.
 - We would recommend including the ability for the Monitoring Officer to rule out of order any questions, petitions, motions and comments (both public and member) that are "vexatious, derogatory" as well as defamatory, frivolous, or offensive, or if they concern a Council employment or staffing matter or could be – (in addition to the ability to rule out of order if previously considered within 6 months, is unrelated to Council functions etc and to refer to a more appropriate place).
 - Quorum for meetings of Council is a quarter (schedule 12 Para 6 LGA 1972), and the Council Procedure Rules reflect this. However, we recommend that the quorum of committees, sub-committees etc should be specifically referenced in the Terms of Reference of each Committee.
 - Should there be a procedure rule on the acceptance of petitions (rather than the Council's Petition Scheme?)
- 7.14 The **Access to Information Procedure Rules in Part 10**, paragraph 11 give access to Members to attend all meetings and access all reports, including reports which relate to exempt and confidential

items (except where the business relates to an individual officer (other than the Chief Executive or Chief Officer), an individual Member of the Council, an individual third party or the Member seeking access has a DPI). This right of access is broad and the Council should consider whether it would be desirable for such rights to be limited to the statutory requirements and the common law "need to know" basis, or whether the associated risks (including potential leaks and claims) are accepted.

- 7.15 We understand that the Council may wish to amend the threshold for **Key Decisions**. It is currently **£50,000**, which is very low for any council. A threshold of at least **£100,000** would be more usual for a District Council or even £250,000.

8 APPOINTMENTS AND DESIGNATIONS

- 8.1 We consider that Part 6 can be removed in its entirety, as it simply repeats the statutory rules on the calculation of political balance (PR/proportional representation). Including this section is unnecessary and creates an additional burden on the Council to ensure that it is kept up to date.

9 BUDGET AND POLICY FRAMEWORK AND FINANCIAL REGULATIONS

- 9.1 The Policy Framework is included in Article 4.01. We note that it includes the "sweep up" phrase: "*Any other plan or strategy (whether statutory or non-statutory) in respect of which Council from time to time determines that the decision on its adoption or approvals should be taken by it rather than the Cabinet*" but strictly speaking, it will not be a matter for the Council to decide where it is not listed and is an executive function.
- 9.2 The Budget and Policy and Framework Procedure Rules (BPFR) themselves are relatively short and do not contain the Policy Framework which is currently at Article 4 and should be brought in here. The BPFRs could be linked to the Financial Procedure Rules.
- 9.3 The Financial Procedure Rules need to be updated to reflect the Accounts and Audit Regulations 2015. Paragraphs 2.2.10 and 2.2.11 also need to be updated to reflect that the Local Audit and Accountability Act 2014 has come into force since these paragraphs were drafted. Paragraphs 6.3.7 and 6.3.8 will also require updating for the same reason. A new Local Audit Panel will need to be established with the statutory terms of reference.
- 9.4 In paragraph 4 of the Budget and Policy Framework Procedure Rules an urgent decision can be taken by Cabinet or any of its Committees, Officers, or joint arrangements discharging executive functions if:
- a) if it is not practical in the opinion of the Chief Executive to convene a quorate meeting of the Council; and
 - (b) the Chief Executive after consultation with the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.
- 9.5 The Council may wish to delegate the matter to the Chief Executive rather than the Cabinet and also to define, or provide guidance, as to what constitutes Urgency.

10 OTHER PROCEDURES, CODES AND PROTOCOLS

- 10.1 We can supply more detailed comments on this part of the Constitution if required but at this stage it is important to determine the structure of a new constitution (what is in and what is out) at a high level.
- 10.2 We would refer you to the draft contents page which sets out our views as to the codes, protocols and guidance documents that are no longer required or could be removed and placed on the Council's website and hyper-linked if necessary
- 10.3 The **Officer Employment Procedure Rules at Part 17** largely recite the Local Authorities (Standing Order) Regulations 2001 as amended without tailoring them properly to the Councils requirements –

further information on changes required to staff provisions is set out in Appendix One. The Chief Executive and Chief Officer Terms and Conditions of Service now require the Independent Persons (however many may accept the invitation) to form an Independent Persons Panel, that can meet concurrently with any Statutory Officers Disciplinary Action Panel.

10.4 We note that paragraph 9 of the Officer Employment Rules gives the Committee delegated authority to take disciplinary action against the Head of Paid Service including dismissal. This does not reflect the latest Regulations nor paragraph 88 nor the JNC Terms and Conditions, as we set out in the table at paragraph 11 below.

10.5 **Contract Procedure Rules.** These are written in simple English which is commended. They need to be updated and perhaps ought to make reference to the Public Services (Social Value) Act 2012 at the early commissioning stage and the purchasing strategy. Reference to existing relevant frameworks including the Crown Commercial Services should be also included.

10.6 The Rules need to be updated to cover the 2015 Public Contracts Regulations and the options for Competitive Negotiated, Dynamic Purchasing and Light Touch as well as bi-annual increases to thresholds for services and works as follows from 1 January 2018 – 31 December 2019.

10.7 A short summary of the main thresholds from January 2018 is below.

TYPE OF AUTHORITY	TYPE OF CONTRACT			
	Works	Supplies & Services	Light Touch Regime Services	Concessions
Central government authorities	£4,551,413 (€5,548,000)	£118,133 (€144,000)	£615,278 (€750,000)	£4,551,413 (€5,548,000)
Sub-central authorities	£4,551,413 (€5,548,000)	£181,302 (€221,000)	£615,278 (€750,000)	£4,551,413 (€5,548,000)

10.8 Contracts Finder requirements should also be included along with updated information relating to Concessions. More information on the need for explicit evaluation criteria should be included in the tender documentation and that all such documentation should be ready at the time of despatch.

10.9 There is a **Glossary**, but in our view there should be one Glossary of Terms for the whole constitution, not individual Parts, to ensure consistency.

10.10 The **Officer Code at Part 7 – 1** is fairly comprehensive (if not too long) although reference should be made to the Bribery Act 2010. There is no financial limit on gifts and hospitality, which should be kept in a central record for transparency. The seven Nolan Principles (which appear in the Member Code of Conduct) could also be referred to here. They apply equally to Officers and Members.

10.11 The **Members' Code of Conduct at Part 7 - 3**. The scope of the Code does not appear to extend to where a member of the public may perceive that a member is acting in an official capacity. In other respects it largely follows the previous mandatory code. There is a financial limit of £50 on gifts and hospitality. We note that Standards for England, whose guidance is referred to in this Code, no longer exists.

10.12 The **Member and Officer Protocol at Part 7 – 6** appears to be comprehensive. We note that there is considerable overlap between the Access to Information provisions at Paragraph 8 and the Protocol. We also note that the rights of Access to exempt and confidential information is very broad.

10.13 The **Press and Media Guidelines at Part 7 – 7** would usually be seen as an internal document, and is not required to be in the Constitution. However, if the Council considered that it would be beneficial to publish these guidelines then they could be hyperlinked from the Constitution.

11 PROPOSALS FOR NEXT STEPS/ACTION

- 11.1 We understand that there is some momentum and desire to move ahead with a review of the constitution. We would support this and would also, from our experience of leading many constitutional reviews, advise that consideration be given to what should go in the new Constitution before re-drafting the document. This review should inform that exercise.
- 11.2 We would usually recommend involvement of relevant stakeholders in a consideration of the key issues (e.g. the Chief Finance Officer on the Financial Procedure Rules) and development of the new document in consultation with key groups (e.g. members when looking at Council and other procedure rules). This approach need not take a long time – with a clear and tightly managed project plan/timetable, this could be achieved on an informal basis and then be consulted upon more widely with interested Council members and officers.

12 KEY AREAS FOR ACTION

12.1 We suggest that areas of the Constitution are prioritised for consideration/focus as follows:-

Issue	Proposed Approach
Principles to drive the review of the Constitution	This report should be used to consider the proposed principles for drafting the document and recommend the basis for decision on how the revision of the Constitution should proceed, appropriate terminology etc
Overall form and presentation and accuracy, updating and future proofing	The form, style, presentation and arrangements for updating/future proofing the constitution should be agreed as well as the approach to guide the Constitution redrafting e.g. hyperlinks – we would recommend that greater powers are given to the Monitoring Officer to update the constitution
Terminology	<p>There is inconsistency or lack of clarity around the use of language within the Constitution. For example:</p> <p>"Chief Officer" is an important term within the Constitution, but it is not defined anywhere (there are five Chief Officers listed at Part 9 – Structure Chart). "Council" and "Authority" are used interchangeably at various points.</p> <p>Approach to language is important e.g. does the Council prefer "citizens" or "members of the public" or "residents"? "Councillors" or "Members"; "Chairman" or "Chair" etc</p> <p>There may be other expressions the Council wishes to change.</p>
Articles	<p>These repeat much of what is stated elsewhere. We would recommend this section is removed and the content placed elsewhere, as follows:</p> <p>Article 1: Add re-vamped purpose of the Constitution to the Introduction and Explanation</p> <p>Article 2: Add content to Introduction and Explanation with hyperlink to member details</p> <p>Article 3: Rights of citizens/members of the public to be included in Introduction and Explanation</p>

Issue	Proposed Approach
	<p>Article 4: Full Council - Omit/merge with Responsibility for Functions. Re the policy framework - add the plans to the Budget Framework to create the Budget and Policy Framework</p> <p>Article 5: Include Chairing the Council in the Introduction and Explanation or hyperlink to somewhere on the councils website</p> <p>Article 6: The general role of Scrutiny should be in the Introduction and Explanation. Terms of reference of overview and scrutiny committee/Panels should be consistent with Article 6 and so merge within the new Responsibility for Functions section</p> <p>Article 7: Executive arrangements should be in the Responsibility for Functions – at present there is a page in Part 4 that should also go into this section</p> <p>Article 8: Regulatory committees have already been placed with other terms of reference of committees in the Responsibility for Functions section so the provisions here could be omitted</p> <p>Article 9: Area Forums – We understand, however, that the Council does not have any Area Forums and has no intention of creating any, in which case we recommend that this section can be removed in its entirety. A line could be included in the Introduction and Explanation mentioning that the Council may introduce them but has not done so.</p> <p>Article 10: Sets out Joint Arrangements, which it is important to include in the Constitution – this introduction of the new part should be expanded to cover non-executive and mixed function joint arrangements, along with the details of the actual joint arrangements in which the council is involved.</p> <p>We would expect more details within the Responsibilities for Functions part relating to Joint Arrangements (in line with Section 13 – Joint Committee for Revenues and Benefits). The Constitution Direction suggests that the terms of reference of joint committees is included in the Constitution although where joint bodies have websites then these may be better hyperlinked, especially where the council is not the host or lead authority.</p> <p>Article 11: The summary of officer roles and responsibilities would be better at the start of the officer delegations in the Responsibilities for Functions section. The details about the statutory officers fits better with the list of proper officer functions under various legislative provisions that should be highlighted in the Responsibility for Functions section.</p> <p>Article 12: Decision-making principles are important and should be relocated with the procedure rules, as part of the Access to Information Procedure Rules or the introduction to the Responsibility for Functions section.</p> <p>Article 13: Finance, contracts and legal matters properly sit within the Responsibility for Functions section and the Procedure Rules, where not already included.</p>

Issue	Proposed Approach
	<p>Article 14: Likewise review and revision of the Constitution should be split between the Introduction and Explanation and the Responsibility for Functions section but we would increase the powers for the Monitoring Officer to make changes and would omit the provisions around changes to existing executive arrangements in 14.02(b) –alternative arrangements we removed by the Localism Act 2011 and if the Council wished to change its governance then it would need to follow the new rules.</p> <p>Article 15: Suspension and interpretation of the Constitution should sit with the Procedure Rules. Publication details should be in the Introduction and Explanation and accessible on the Website.</p>
Part 3 – Responsibility for Functions	This section could be shortened by taking a more purposive approach to the committee terms of reference. For example, the Planning and Highways Regulatory Committee Terms of Reference lists 49 Functions of the Committee. Committee Terms of Reference shape the operation of the Council and care should be taken to ensure that members and officers get the opportunity to comment on proposed changes.
Part 3 – Responsibility for Functions – The Council	<p>Paragraph 1.17 the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 has been repealed. It is now the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.</p> <p>The requirement for approval Housing Land Transfer (as described in Article 4.01) has been repealed. This can be removed from the Constitution.</p> <p>This section should also make it clear that appointing the Council's auditors is now the responsibility of local audit panels pursuant to the Local Audit and Accountability Act 2014.</p>
Part 3 – Responsibility for Functions – The Cabinet	<p>This section could incorporate some of the useful content from Article 7, and we think it would be clearer to have all of the information in one place.</p> <p>Paragraph 7.07 of Article 7 should be included in the Responsibilities for Functions section.</p>
Part 3 – Responsibility for Functions - Scheme of Delegation to Members	<p>The current disparate parts of the Constitution should be brought together more coherently to provide clarity within a comprehensive Responsibility for Functions section. There are also areas which need addressing, particularly</p> <ul style="list-style-type: none"> • We would normally expect to see a full Proper Officer list of functions in the constitution and would suggest that some nomenclature is included to highlight such functions in the Responsibility for Functions section; • Consideration is given to areas being stated more generically and with fewer references to legislation;

Issue	Proposed Approach
	<ul style="list-style-type: none"> • There are a number of Proper Officer and other functions that need to be added in. <p>But otherwise than set out above and earlier in this note, no fundamental issues have been identified with the core arrangements for the allocation of member and officer decision making – the challenge is to make the documents more accessible future-proof and user friendly.</p> <p>Should local schemes of delegation be preferred then each relevant service area could be required to develop their own scheme (within a standard non-negotiable template) in specified deadlines to ensure their own local delegations work effectively.</p> <p>The local schemes would need to be regularly updated and also filed centrally so that if a member of the public wishes to see them the provisions are generally available quickly.</p>
Procedure Rules	A number of suggested changes have been made in the report for the Codes, Protocols and Procedure Rules
Provisions in relation to staff	<p>In Part 5 the Personnel Committee does not contain any Terms of Reference (ToR) that explicitly cover dealing with grievances or severance of chief officers/senior officers.</p> <p>Should the Personnel Committee also be able to agree the Councils establishment and authorise restructuring or should restructuring completely be within the remit of the Chief Executive including the addition and deletion of posts?</p> <p>It is not clear who is responsible for taking disciplinary action against JNC Chief Officers. Paragraph 8 of the Officer Employment Procedure Rules state that this is a matter for the Personnel Committee, but the TOR's of that committee do not explicitly say that.</p> <p>Now that the 2001 Standing Orders Regulations have been amended from no disciplinary action being taken against a statutory officer, to protection against dismissal of a statutory officer without a report to Council including consideration of representations by a panel of Independent Persons, Paragraph 9 of the Officer Employment Procedure Rules, should be updated.</p> <p>The Independent Persons, under the Statutory Officers Terms and Conditions of service now need to meet as a separate panel. That panel is able to meet concurrently with any Statutory Officers Disciplinary Action Panel that would meet to consider allegations of gross misconduct or other conduct that could lead to the dismissal of a statutory officer. For disciplinary action that is unlikely to amount to gross misconduct or that will be unlikely to lead to dismissal the Panel should not include the Independent Persons.</p> <p>The number of members of the Investigation and Disciplinary Committee/ updated Personnel Committee could therefore be six with a quorum of five or less – subject to what is stated above about political balance and a member of the Cabinet being included.</p>

Issue	Proposed Approach
	<p>The Terms and Conditions of service allow for a process to rule out frivolous or vexatious claims or matters that should be dealt with elsewhere. We would recommend that this is undertaken by an officer (the Monitoring Officer unless the allegations are against the Monitoring Officer in which case we would recommend the Head of Paid Service or Deputy Monitoring Officer) in consultation with the chair of the relevant Committee/panel.</p> <p>We would also recommend that the panel has the ability to deal with severance on mutually acceptable terms, in line with council policies. We assume that severance policies are referred to or set out in the Council's annual pay policy statement? If not they should be somewhere on the Council's website and are required to be reviewed regularly.</p>

Bevan Brittan LLP
28 February 2018

DRAFT

NOTICE OF MOTION – FRACKING

To be proposed by Cllr Jackson and seconded by Cllr Brooks and Cllr Hamilton-Cox.

“Lancaster City Council notes that on 23 September 2015, this Council voted in favour of a motion that stated:

This council agrees to:

- (a) *Oppose fracking in the Lancaster district, or fracking outside our district which could affect residents within our district, and call upon the Government to reconsider its policy of encouraging fracking. (Thereafter giving 3 clear and detailed environmental reasons for this opposition – see original motion);*
- (b) *Urge the Government to scrap proposals to remove responsibility for determining fracking planning applications from local councils. (See original motion for more detail).*

Additionally, this Council further notes that:

In May this year Ministers outlined a proposal in a Written Ministerial Statement to redefine non-hydraulic fracturing shale gas exploration applications as **permitted development** and to redefine large scale shale gas production sites as **Nationally Significant Infrastructure Projects**, thus removing any local authority control and community involvement in decision-making.

That on 5 July 2018, a report by the cross-party Housing, Communities and Local Government Committee warned the Government against its proposals concluding that Mineral Planning Authorities, i.e. Lancashire County Council, were best placed to understand the local area and how fracking could best take place. And that the above report also said the Nationally Significant Infrastructure Projects regime was unlikely to speed up the application process for fracking.

Lancaster City Council believes:

- It continues to support and promote its September 2015 resolution opposing fracking;
- That moving decisions about fracking, which have huge implications for local communities, to a national level contradicts the principles of localism;
- That ‘Permitted Development’ was designed for developments with low environmental impacts and is therefore not an appropriate category for drilling with such wide-reaching implications for local communities and climate change;
- That bringing fracking applications under the Nationally Significant Infrastructure Projects regime will be harmful to local communities; and,
- That local authorities are best placed to continue to make decisions throughout the planning process for shale gas exploration drilling, appraisal and production.

Lancaster City Council resolves:

1. To respond to the forthcoming government consultation with these views.
2. To share this response with Lancashire MPs and relevant government ministers.
3. To reaffirm its policy commitment to “oppose fracking in the Lancaster district, or fracking outside our district which could affect residents within our district”.
4. To embed this policy within our Climate Change policy and the Council Plan (see resolution 23 July 2018) and so to communicate this policy to our residents, other local authorities, partner agencies and contractors.

OFFICER BRIEFING NOTE

There are two national consultations that were published on 19 July 2018 that relate to this motion.

The first is an initial consultation published by the Department for Business, Energy and Industrial Strategy (DBEIS). It asks whether respondents agree with the proposal to include major shale gas production projects in the Nationally Significant Infrastructure Projects regime.

The second is a consultation from the Ministry of Housing, Communities and Local Government (MHCLG), which seeks views on whether to introduce a permitted development right for non-fracturing shale gas exploration.

The closing date for both consultations is 25 October 2018.

DBEIS Consultation - Whether to include major shale gas production projects within the Nationally Significant Infrastructure Projects Regime

Nationally Significant Infrastructure Projects (known as NSIP) are major strategic projects that are determined outside the usual local planning decision-making system. Previous examples of NSIP include major strategic highway network construction projects (e.g. the Bay Gateway); new railway lines or rail freight interchanges; new airports; offshore windfarms and power stations.

Under the Planning Act 2008 (as amended), a developer who wishes to construct a NSIP must obtain 'development consent'. The final decision for granting development consent rests with the relevant Secretary of State. It is the only route available for obtaining planning permission for this type of major project.

Proposals for the extraction of oil or gas, including shale gas (known as fracking), are not currently determined as NSIP projects. Instead, they are projects that are determined by the Strategic Planning Authority, who in this region are Lancashire County Council.

The effect of the Government consultation proposal would be that, if accepted, the production phase (extraction) of fracking projects would become an NSIP, and Lancashire County Council would no longer be the decision-making body.

MHCLG Consultation - Whether to introduce a permitted development right for non-fracturing shale gas exploration

The exploratory phase of oil and gas extraction is important because it enables the developer to acquire geological data to establish whether hydrocarbons are present. In the case of shale gas, this exploratory phase may involve the drilling of an exploration well and conducting seismic surveys. This is followed by a testing/appraisal phase. It is usually only when these stages are completed, and the developer has received positive data, that a production (extraction) proposal will be considered.

Currently any developer who wishes to carry out exploratory investigations for shale gas has to apply to the Strategic Planning Authority for permission. This is Lancashire County Council.

The effect of the Government consultation proposal would be to introduce a new, national permitted development right. In other words, it would make any non-hydraulic shale gas exploration or testing operation permitted so that it would not require planning permission from the County Council.

The permitted development right being proposed via the consultation is:

"Boring for natural gas in shale or other strata encased in shale for the purposes of searching for natural gas and associated liquids, with a testing period not exceeding 96 hours per section test".

The consultation also asks other questions regarding the proposed permitted development right. For example, it asks whether respondents agree that the permitted development right would not apply in sensitive areas, including Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest, Conservation Areas, Sites of Archaeological Interest and other land that is safeguarded in the national interest.

Responding to the Consultations

The City Council does not appear to have formally received a consultation request on either consultation. This is likely to be because it is not the Strategic Planning Authority responsible for decision-taking in relation to shale gas projects. Notwithstanding this, the consultation is not restricted and the Council can formally submit observations.

In respect of the proposed changes to national procedure, particularly the proposals to (i) make fracking an NSIP; and (ii) to introduce a permitted development right for the exploratory stages; the City Council is free to offer views as to whether this would be harmful to the principles of localism; whether local planning authorities are best-placed to determine such matters; and whether the permitted development regime is appropriate.

In respect of the approved Motion (September 2015) which sought to oppose fracking, the City Council is free to reiterate its' views again at a political level, but this is with one caveat. The City Council would be likely to be consulted on any individual future proposals for fracking that emerge through the NSIP process. It is incumbent on the City Council – in its' role as a local planning authority - to consider individual proposals on its own merits before deciding whether it supports or objects to a fracking proposal. The local planning authority cannot pre-determine a proposal; and to do so could result in risk of judicial challenge.

Therefore whilst Members can resolve to oppose the principles of fracking and the proposed legislative changes currently being consulted on, they must ensure that the Council remains unencumbered if it receives a formal planning consultation through the NSIP regime.

MONITORING OFFICER COMMENTS

1. *To respond to the forthcoming government consultation with these views.*
2. *To share this response with Lancashire MPs and relevant government ministers.*
3. *To reaffirm its policy commitment to “oppose fracking in the Lancaster district, or fracking outside our district which could affect residents within our district”.*
4. *To embed this policy within our Climate Change policy and the Council Plan (see resolution 23 July 2018) and so to communicate this policy to our residents, other local authorities, partner agencies and contractors.”*

Item 1 is a political statement which the authority is entitled to make

Item 2 is a political statement which the authority is entitled to make

Item 3 it is a matter entirely for the chamber to consider if a restatement is necessary. It should be noted the statement is unequivocal which impacts upon the 4th proposition.

Item 4 Requires these statements to become part of the policy framework which sets the legal parameters within which the council operate. Climate change has been incorporated into the

Council plan which is a core policy document of the authority. This suggests the incorporation of a single operational policy of opposing this method of hydro carbon extraction into the framework. This would require the council to act in opposition to any proposal. I would not advise incorporating a single issue into a framework policy.

The authority is not the decision making body for this activity and in the event that hydrocarbon extraction takes place, the local authority would be constrained by what is an opposition policy. The authority would not be empowered to engage, influence, mitigate, or obtain a benefit from any hydrocarbon extraction.

If the Council was consulted in a regulatory capacity the political commentary is part of the landscape but each proposal is must be carefully considered on its individual merits. If it is incorporated as part of our policy framework there may be a greater perception of predetermination.

The chamber may wish to accept the political position that this type hydro carbon extraction is opposed or unwelcome and to voice this and state this publically.

The chamber may wish to reflect on incorporation of this detailed single issue item into the policy framework and may conclude that the authority would benefit from a degree of flexibility. For example, a consultation response which reflects the policy to simply oppose this activity may be considered to be predetermined. The chamber may consider the provision within the wording for the opportunity to offer mitigation or an alternative approach may also be of use.

SECTION 151 OFFICER COMMENTS

The Section 151 Officer has been consulted and has no further comments.

COUNCIL**Constitution: Amendment to the Scheme of Delegation (Non-Executive Functions)****26 September 2018
Report of the Monitoring Officer****PURPOSE OF REPORT**

To seek Council's approval to amend the Scheme of Delegation to Officers in the Council's Constitution in line with the resolution of Personnel Committee, as set out in the report.

This report is public

RECOMMENDATION

- (1) **That Council approves the recent delegations from the Personnel Committee to Line Managers, set out below:**

That the

- a) approval of non-contentious terminations of employment; and
b) determination of commencing salary for permanent or temporary posts**

be delegated to Line Managers.

- (2) **That Council authorises the Monitoring Officer to include these non-executive delegations in the Scheme of Delegation to Officers, contained within the Council's Constitution.**

1.0 Introduction

- 1.1 On 30 August 2018, the Personnel Committee considered a report proposing a couple of minor changes to the scheme of delegation to permit line managers (rather than Chief Officers) to:-

- a) approve non-contentious terminations of employment; and
b) determine commencing salary for permanent or temporary posts

- 1.2 Full details of the reasons for the proposals, and how they would apply, were set out in the report to the Personnel Committee, which is attached for Members' information.

2.0 Proposal

- 2.1 The changes requested were within the remit of the Personnel Committee to delegate to Line Managers, and the Committee agreed to do so, making the following resolution to do so on 30 August:

(1) *That the Personnel Committee agrees to amend their delegations in respect of*

- a) Non-contentious terminations of employment, and*
- b) Determination of commencing salary for permanent or temporary posts*

and delegate responsibility to line managers.

2.2 However, approval for any changes to the Officer Scheme of Delegation rests with Council, hence this report.

3.0 Conclusion

3.1 Council is asked to approve the delegations set out above and authorise the Monitoring Officer to make the necessary amendments to the Scheme of Delegation to Officers (non-executive delegations), in the Council's Constitution.

CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None directly arising from this report.

LEGAL IMPLICATIONS

None directly arising from this report.

FINANCIAL IMPLICATIONS

There are no substantial financial implications as a result of the proposed delegations, however streamlining processes in the manner described will save Chief Officer time.

OTHER RESOURCE IMPLICATIONS

Human Resources; Information Services; Property; Open Spaces:
None

SECTION 151 OFFICER'S COMMENTS

The S151 Officer has been consulted and has no comments.

MONITORING OFFICER'S COMMENTS

This report has been drafted on behalf of the Monitoring Officer, who has been consulted throughout.

BACKGROUND PAPERS	Contact Officer: Debbie Chambers
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None

Telephone: 01524 582057
E-mail: dchambers@lancaster.gov.uk
Ref:

PERSONNEL COMMITTEE

**Amendment to the Constitution
Scheme of Delegation for Non-Executive functions**

30 August 2018

Report of the HR Service Manager

PURPOSE OF REPORT

To enable the Committee to approve an amendment to the scheme of delegation to officers in respect of matters within its terms of reference.

This report is public.

RECOMMENDATIONS

- (1) That the Personnel Committee agree to amend their delegations in respect of;**
- 1. Non-contentious terminations of employment, and**
 - 2. Determination of commencing salary for permanent or temporary posts,**
- and delegate responsibility to line managers.**

1.0 Introduction

- 1.1 The scheme of delegation outlined in Part 3, Responsibility for Functions, Section 14 of the Constitution provides for the delegation of certain Personnel Committee functions to the Chief Executive and Chief Officers, to enable the effective delivery of service in respect of employment matters.
- 1.2 The existing scheme of delegation has been in place for many years, during which time there have been a number of changes to the organisation. The proposed change to the scheme of delegation would have an impact on the speed at which these straight forward matters can be processed and would release Chief Officers from spending time on what are essentially administrative functions.

2.0 Non-contentious terminations

- 2.1 Non-contentious terminations of employment are employee resignations or standard retirements (not including ill-health retirements or early access to pension as a result of redundancy). The current scheme of delegation specifies that only a Chief Officer may *‘terminate employment in accordance with Council policy’*, and consequently each termination requires approval by a Chief Officer via the MyView HR and Payroll system.

2.2 Employee resignations and standard retirements are a normal part of the employee lifecycle and no decision required from the Chief Officer. The decision is made by the employee who gives notice of their decision to the Council. Line managers and HR then action those requests.

2.3 It is proposed to make a minor change to the scheme of delegation to permit line managers to approve non-contentious terminations of employment and thereby improve speed and efficacy of processing, whilst also removing the involvement of Chief Officers from what is essentially an administrative process.

3.0 Determination of commencing salary for permanent or temporary posts

3.1 The current delegated recruitment process allows Chief Officers *'To recruit to established permanent or temporary posts (below JNC Chief Officer level), and determine commencing salary and subsequent granting or withholding of incremental progression'*. Chief Officers therefore approve the process whereby vacant posts are filled. This process is well established and involves both HR and Finance, who confirm that there is budget provision within a specified salary grade range.

3.2 As well as approving the post to be filled, as the delegations to Chief Officers require that they *'determine commencing salary'*. Consequently they are also required to sign off on each appointment decision. Chief Officers are rarely involved in the recruitment process and, in practice, the decision on the salary offered to the successful candidate has been made prior to the Chief Officer being asked for final sign off and will have been made within the salary range previously approved by the Chief Officer.

3.3 In practice, as Chief Officers are rarely involved with recruitment beyond the original approval to recruit, and line managers make salary decisions within prescribed salary ranges, it is proposed to make a minor change to the scheme of delegations to permit line managers to determine commencing salary. This approach will streamline existing processing and also release Chief Officers from unnecessary administration activity.

4.0 Amendment to the Constitution

4.1 If approved the amendment to the Constitution will be to revise the delegations outlined above that are found within Part 3, Responsibility for Functions, Section 14 of the Constitution.

5.0 Options

5.1 The options available to the Committee in respect of the above recommendations are to approve or not approve the officer recommendations.

6.0 Conclusions

6.1 Members are asked to consider and approve the amendments to the scheme of delegation for non-executive functions as set out in the Council's constitution.

**CONCLUSION OF IMPACT ASSESSMENT
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None.

FINANCIAL IMPLICATIONS

There are no financial implications.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

There are no legal implications.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted in the drafting of the report and has no further comments.

BACKGROUND PAPERS

None.

Contact Officer: Angela Jackson
Telephone: 01524 582179
E-mail: ajackson@lancaster.gov.uk

CABINET

6.05 P.M.

7TH AUGUST 2018

PRESENT:- Councillors Eileen Blamire (Chairman), Janice Hanson (Vice-Chairman), Nathan Burns, Darren Clifford, Brendan Hughes, Margaret Pattison, Andrew Warriner and Anne Whitehead

Officers in attendance:-

Susan Parsonage	Chief Executive
Kieran Keane	Assistant Chief Executive
David Brown	Interim Head of Legal and Democratic Services and Monitoring Officer
Mark Davies	Chief Officer (Environment)
Andrew Clarke	Financial Services Manager
Paul Rogers	Senior Regeneration Officer (part)
Liz Bateson	Principal Democratic Support Officer

21 MINUTES

The minutes of the meetings held on Tuesday 26 June and Tuesday 3 July 2018 were approved as a correct record.

22 ITEMS OF URGENT BUSINESS AUTHORISED BY THE LEADER

The Chairman advised that there was one item of urgent business regarding Heysham Gateway (Minute 30 refers). As it was an exempt report it would be considered in the private part of the meeting.

23 DECLARATIONS OF INTEREST

No declarations were made at this point.

24 PUBLIC SPEAKING

Members were advised that there had been no requests to speak at the meeting in accordance with Cabinet's agreed procedure.

25 ST GEORGE'S QUAY CAR PARK

(Cabinet Member with Special Responsibility Councillor Hughes)

Cabinet received a report from the Chief Officer (Environment) to consider an objection to the Council's plan to introduce formalised car parking management and charges on St George's Quay car park.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

	Option 1: Not uphold the objection	Option 2: Uphold the objection
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Advantages	<p>This option allows the original decision of introducing formal management of the car park to be implemented.</p> <p>This option will give priority to residents and businesses for the limited parking that is available.</p> <p>This option will prevent commuter and long term parking of vehicles.</p>	None
Disadvantages	Car parking charges will be introduced to offset the cost of enforcement and other operational costs.	<p>This option will not prevent the commuter and long term parking.</p> <p>Alternative management proposals would potentially have to be developed.</p> <p>This option has specific budgetary implications and affects other car parking proposals that have further budgetary implications.</p>
Risks	Criticism for not introducing long standing proposals for formalised management of the car park	Unmanaged, commuter and long term parking would continue on the car park.

The officer preferred option is to not uphold the objection.

Councillor Clifford proposed, seconded by Councillor Pattison:-

“That the recommendations, as set out in the report, be approved.”

Councillors then voted:-

Resolved unanimously:

- (1) That the objection to the concept and imposition of parking charges on St George's Quay Car park be noted.

- (2) Not to uphold the objection and to continue the process of implementing the decisions already made by Cabinet.

Officer responsible for effecting the decision:

Chief Officer (Environment)

Reasons for making the decision:

The proposed increases and car parking management arrangements approved by Cabinet in February (and subsequently included in the budget approved by Council) were considered to be fair and reasonable and in line with the Fees and Charges Policy. Blue badge holders will be able to park free of charge without time limit on the car park in line with the Council's discretionary arrangements for all its managed car parks. In terms of the specific proposals for the St. George's Quay car park, introducing formalised management of the car park is consistent with managing car parking assets to raise revenue and to give priority where appropriate to residents and businesses and to remove long term and commuter parking.

26 LANCASTER CATON ROAD (PHASE 3) FLOOD RISK MANAGEMENT SCHEME

(Cabinet Member with Special Responsibility Councillor Hanson)

Cabinet received a report from the Assistant Chief Executive to update Members on the River Lune flood defence scheme progress and funding matters, and agree the draw down and commitment of an additional portion of Environment Agency funding in order to undertake further critical work on design development and cost planning.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

	Option 1: Do nothing	Option 2: Accept a further £2.3M EA FDGiA and use £532K to undertake further design development work in support of funding, planning and delivery of the Phase 3 Flood Defence Scheme.
Advantages	Officers do not have to undertake further development work on a major capital scheme.	Gives the best chance of a scheme to be ready that secures all statutory, contractual and funding requirements and which meets current deadlines. Continues the process of applying more certainty to scheme costs and deliverability in conjunction with the partner contractor.

		Allows work on costs and deliverability to support the planning application.
Disadvantages	<p>Without additional resources it is unlikely that officers will be able to develop the package of works in sufficient detail with the partner contractor to allow:</p> <ul style="list-style-type: none"> • a formal contract for the works to be agreed by the end of March 2019. • further investigations and deliverability work to support the planning application and statutory requirements. 	Engages the council and its staff resources in the continuing development of a major capital project.
Risks	<p>Reputational risks of being unable to deliver a contract within the deadlines imposed by ERDF and MCHLG.</p> <p>Reputational risks of missing / delaying delivery and the planning application being refused for lack of information.</p>	Engaging in a more detailed development phase without certainty of the funding package or contractual delivery may raise expectations (although the council is not committed to any construction contract).

The officer preferred option is Option 2 to accept a further £2.3M EA FDGiA and use £532K to undertake further design development work in support of funding, planning and delivery of the Phase 3 Flood Defence Scheme.

This decision allows the council to progress the detailed design and bring more certainty to deliverability and costs in order to inform planning and statutory requirements and ensure the challenging contracting deadlines have the best prospect of being achieved.

As the council has progressed a phased tender under the WEM framework officers are confident all spend will be ERDF compliant and available to be used as match funding to ERDF grant should this be approved and accepted in future.

While progressing further work does not commit the council to accepting ERDF funds, or progressing a full scheme, more detailed work has to be undertaken for there to be the chance of meeting ERDF contracting and delivery deadlines. Option 2 also allows officers to continue to explore and confirm the appetite of the major businesses to assist with significant financial contributions and continue to investigate other potential public

funding sources.

Councillor Hanson proposed, seconded by Councillor Burns:-

“That the recommendations as set out in the report be approved, with a revision to recommendation 4 by way of the deletion of the second bullet point, and an additional recommendation as set italicized below:

Members encourage those major businesses who have not yet committed an “in-principle” financial contribution to consider the major benefits of investing in the scheme, as otherwise there may be insufficient funding to enable the project to proceed.”

Councillors then voted on the recommendations, as amended:-

Resolved unanimously:

- (1) That, on approval of the Phase 3 business case / financial appraisal, Members agree to accept an offer of approximately £2.3M Flood Defence Grant in Aid (FDGiA) and use up to £532K to undertake further design development work in support of funding, planning and delivery of the Phase 3 Flood Defence Scheme.
- (2) That delegated authority be given to the Financial Services Manager to update the General Fund Revenue Budget to reflect the design development expenditure and associated FDGiA funding as appropriate.
- (3) That officers continue to work with the major Caton Road business to negotiate / secure private funding contributions and also investigate any further public funding avenues to meet the full scheme construction costs.
- (4) That agreement of the above continues to be on the basis that the scheme is wholly externally funded and that there is no commitment to allocate City Council capital or revenue funding;
- (5) That Members encourage those major businesses who have not yet committed an “in-principle” financial contribution to consider the major benefits of investing in the scheme, as otherwise there may be insufficient funding to enable the project to proceed.
- (6) That a further report is made to Cabinet to ensure financial, procurement, legal and operational implications are resolved prior to acceptance of any ERDF funding and private sector contributions; and before contractually committing to implementing the construction phase (Stage 2).

Officer responsible for effecting the decision:

Assistant Chief Executive
Financial Services Manager

Reasons for making the decision:

Economic Growth is a high level Corporate Priority for the City Council, the flooding risk to this important industrial area undermines business and investment confidence, and there is an acute need to promote this scheme to help secure its delivery. The proposed course of action represents the most appropriate route towards achieving a positive outcome, both meeting the City Council's regeneration objectives and having wider social, economic and environmental impacts.

27 CORPORATE FINANCIAL MONITORING 2018/19 - QUARTER 1**(Cabinet Member with Special Responsibility Councillor Whitehead)**

Cabinet received a report from the Chief Officer (Resources) to provide an overview of the Council's financial position for Quarter 1 of the 2018/19 monitoring cycle and the supporting actions underway.

As the report was primarily for noting, no options were provided. It was noted that a revised Annex B, an update on Salt Ayre had been included in the supplementary report.

It was proposed by Councillor Whitehead, seconded by Councillor Clifford and resolved unanimously that the report and supporting actions be noted.

Resolved unanimously:

- (1) That the report and supporting actions, as set out in the report, be noted.

28 PROPOSED ALLOCATIONS FROM THE BUDGET SUPPORT RESERVE - PROGRAMME UPDATE**(Cabinet Member with Special Responsibility Councillor Whitehead)**

Cabinet received a report from the Chief Officer (Resources) which sought consideration of proposed allocations from the Budget Support Reserve to enable the progress of related matters.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

Approve the allocations as proposed:

Essentially the proposals are to help ensure that the Council has adequate capacity to develop and take forward its plans, in a timely and structured manner to help ensure successful outcomes. There is risk in terms of abortive costs for example, should the business case for any proposal prove unviable. There is also risk that the allocations will be insufficient, or that suitable and timely expertise cannot be secured, as further examples. These are typical project risks and would be mitigated through the governance arrangements proposed. Relevant Officers would be held to account, in support of good governance.

Amend/defer the proposed allocations

Should Cabinet consider this option, the rationale and implications of any proposed

amendment would need to be considered and addressed.

Do not approve the allocation

Should this option be chosen, then the Council could not reasonably expect to deliver its key projects in any timely fashion, and this would impact on the achievement of outcomes as set out in the Council Plan, and on the achievement of financial targets as set out in the Medium Term Financial Strategy (MTFS). If no additional capacity was to be facilitated at any point, this would require fundamental reconsideration of the Council's direction and its budget, together with supporting strategies and plans.

The relevant Officers' preferred option is to approve the allocations as proposed, for the reasons stated.

Councillor Whitehead proposed, seconded by Councillor Pattison:-

"That the recommendation, as set out in the report, be approved."

Councillors then voted:-

Resolved unanimously:

- (1) That Cabinet approves a total allocation of £300K from the Budget Support Reserve to cover Programme Management Capacity and Project Support Capacity, with the allocations managed under the governance arrangements as set out in the report.

Officer responsible for effecting the decision:

Financial Services Manager

Reasons for making the decision:

The purpose of the Budget Support Reserve is to provide resources to help finance capacity, feasibility/review and other development work in support of the Council's corporate planning and budgeting arrangements. Work was currently ongoing to review the City Council's existing projects to ensure the projects and project governance is robust and supports successful delivery. Many of the projects are linked to the Council's transformation, digital and commercial agendas and short-term specialist support is required to progress the projects, which will assist the Council in modernising and provide for income generation in the future.

29 EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor Hanson and seconded by Councillor Clifford:-

"That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that it could involve the possible disclosure of exempt information as defined in paragraph 3 of Schedule 12A of that Act."

Members then voted as follows:-

Resolved unanimously:

- (1) That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that it could involve the possible disclosure of exempt information as defined in paragraph 3 of Schedule 12A of that Act.

30 ITEM OF URGENT BUSINESS - HEYSHAM GATEWAY**(Cabinet Member with Special Responsibility Councillor Blamire)**

In accordance with Part 4, Section 7, Urgent Business Procedure Rules and S100 (B) of the Local Government Act 1972, Cabinet received a report from the Financial Services Manager. The report sought approval to delegate to the Financial Services Manager in consultation with the Cabinet Member to vary the terms of the condition exchange of contracts from those set out in Appendix A of Annex 3 of the exempt report of the 8th August 2017. The report was exempt from publication by virtue of Paragraph 3 of Schedule 12a of the Local Government Act 1972.

The Chairman had agreed to consider the report as an item of urgent business in order to enable the conditional exchange of contracts to progress, avoid unnecessary delay and allow the transaction to conclude as soon as practical. The Chairman of the Overview and Scrutiny Committee had been consulted and agreed to the item being treated as a matter of urgency in accordance with Overview and Scrutiny Procedure Rule 17(a) and therefore not subject to call-in.

The options, options analysis, including risk assessment and officer preferred option, were set out in the exempt report.

Councillor Blamire proposed, seconded by Councillor Hanson:-

“That the recommendations, as set out in the exempt report, be approved.”

Councillors then voted:-

Resolved unanimously:

- (1) That Cabinet authorises the Financial Services Manager to approve any subsequent revisions needed to the sale terms in respect of this land sale, after consultation with the Leader, up to an assessed liability as set out in the exempt report.
- (2) That it be noted that the Chairman of the Overview and Scrutiny Committee had agreed to waive the call-in period regarding implementation of the decision.

Officers responsible for effecting the decision:

Assistant Chief Executive
Financial Services Manager
Interim Head of Legal & Democratic Services

Reasons for making the decision:

Sustainable economic growth is a high level Corporate priority for the City Council with Heysham Gateway identified as a regeneration priority in the Core Strategy and Local Plan. Cabinet approved entering into a conditional sale contract in August 2017 (Minute 23 – 8.8.2017 refers) and permitting the further delegation enables positive and quick progress to be made. Cabinet will receive a further report at the conclusion of the process.

31 LAND FORMING PART OF LANCASTER LEISURE PARK, LANCASTER (Pages 11 - 12)**(Cabinet Member with Special Responsibility Councillor Blamire)**

Cabinet received a report from the Chief Officer (Resources) regarding the land forming part of Lancaster Leisure Park, which was exempt from publication by virtue of paragraph 3, of Schedule 12A of the Local Government Act 1972. The options, options analysis, including risk assessment and officer preferred option, were set out in the exempt report.

Councillor Blamire proposed, seconded by Councillor Hanson:-

“That the recommendations, as set out in the exempt report, be approved.”

Councillors then voted:-

Resolved unanimously:

- (1) The resolutions are set out in a minute exempt from publication under Paragraph 3 of Schedule 12A of the Local Government Act 1972.

Officer responsible for effecting the decision:

Assistant Chief Executive

Reasons for making the decision:

The reasons for making the decision are set out in a minute exempt from publication under Paragraph 3 of Schedule 12A of the Local Government Act 1972.

Chairman

(The meeting ended at 6.50 p.m.)

**Any queries regarding these Minutes, please contact
Liz Bateson, Democratic Services - telephone (01524) 582047 or email
ebateson@lancaster.gov.uk**

MINUTES PUBLISHED ON FRIDAY 10 AUGUST, 2018.

**EFFECTIVE DATE FOR IMPLEMENTING THE DECISIONS CONTAINED IN THESE MINUTES:
MONDAY 20 AUGUST 2018, WITH THE EXCEPTION OF MINUTE 30 – HEYSHAM GATEWAY
WHICH CAN BE IMPLEMENTED WITH IMMEDIATE EFFECT AS CALL-IN HAS BEEN WAIVED
ON THIS ITEM.**

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

CABINET

6.00 P.M.

4TH SEPTEMBER 2018

PRESENT:- Councillors Eileen Blamire (Chairman), Nathan Burns, Darren Clifford, Brendan Hughes, Margaret Pattison, Andrew Warriner and Anne Whitehead

Apologies for Absence:-

Councillor Janice Hanson (Vice-Chairman)

Officers in attendance:-

Susan Parsonage	Chief Executive
Kieran Keane	Assistant Chief Executive
Mark Davies	Chief Officer (Environment)
Suzanne Lodge	Chief Officer (Health and Housing)
David Brown	Interim Head of Legal and Democratic Services and Monitoring Officer
Andrew Clarke	Financial Services Manager
Jez Bebbington	Executive Assistant, Office of the Chief Executive
Liz Bateson	Principal Democratic Support Officer

32 MINUTES

The minutes of the meeting held on Tuesday 7 August 2018 were approved as a correct record.

33 ITEMS OF URGENT BUSINESS AUTHORISED BY THE LEADER

The Chairman advised that there were no items of urgent business.

34 DECLARATIONS OF INTEREST

No declarations were made at this point.

35 PUBLIC SPEAKING

Members were advised that there had been no requests to speak at the meeting in accordance with Cabinet's agreed procedure.

36 REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEE

(Cabinet Member with Special Responsibility Councillor Whitehead)

Cabinet received a referral report from the Overview and Scrutiny Committee following the call-in on 28 August 2018 with regard to the Budget Support Reserve – Proposed Allocations.

At the call-in the Overview and Scrutiny Committee made the following recommendation to Cabinet:-

“That the Overview and Scrutiny Committee recommends that Cabinet considers the list

of projects and the way in which the projects are prioritised at its next meeting.”

After a brief discussion, Councillor Whitehead proposed, seconded by Councillor Clifford:-

“That the request of the Overview and Scrutiny Committee regarding key projects and prioritisation be deferred to a later meeting to give Cabinet the opportunity to consider this issue in greater detail.”

Councillors then voted:-

Resolved unanimously:

- (1) That the request of the Overview and Scrutiny Committee regarding key projects and prioritisation be deferred to a later meeting to give Cabinet the opportunity to consider this issue in greater detail.
- (2) That it be noted that the Cabinet decision on the proposed allocations from the Budget Support Reserve made on 7 August 2018 (Minute 28) has been upheld.

Officers responsible for effecting the decision:

Assistant Chief Executive
Financial Services Manager

Reasons for making the decision:

The decision ensures that Cabinet members will have sufficient time to give careful consideration to prioritising the list of proposed projects at a future meeting.

37 REVIEW OF COUNCIL HOUSING TENANCY AGREEMENT - CONSULTATION RESPONSES

(Cabinet Member with Special Responsibility Councillor Warriner)

Cabinet received a report from the Chief Officer (Health & Housing) to inform Cabinet of the results of the consultation with tenants on the proposed changes to the Council Housing Tenancy Agreement and to ask Cabinet to approve the new agreement.

The options, options analysis, including risk assessment and officer preferred option, were set out in the report as follows:

	Option 1: Do nothing – continue with the existing Tenancy Agreement	Option 2: Cabinet approves the amended Tenancy Agreement
Advantages	Simplicity of continuation. Marginal cost savings	The tenancy agreement is updated to ensure that it meets current standards and requirements, and is fit for purpose; taking into account the comments received. The tenancy agreement remains

		an effective management tool.
Disadvantages	The existing tenancy agreement does not reflect current standards and requirements.	Marginal costs of implementation.
Risks	The tenancy agreement will not be wholly fit for purpose as an effective management tool.	The Government's former advice on unfair terms in tenancy agreements has been referred to throughout this process. This approach will help minimise risk relating to the robustness of the content of the new agreement.

The Officer preferred option is Option 2 for the reasons set out above.

The comments made and clarifications sought by tenants have been taken into account in the final draft of the Tenancy Agreement, and have been incorporated into the draft of the Agreement as set out in Appendix 1 to the report. Cabinet is required to consider the comments received from tenants during consultation and then make any subsequent amendments, as appropriate to the draft Agreement.

Councillor Warriner proposed, seconded by Councillor Hughes:-

"That the recommendations, as set out in the report, be approved."

Councillors then voted:-

Resolved unanimously:

- (1) That the comments received from tenants during consultation and subsequent amendments to any of the proposed variations to the Tenancy Agreement in response to the consultation be noted.
- (2) That the amended Tenancy Agreement be approved.
- (3) That the Chief Officer (Health and Housing) be authorised to issue to all tenants a Notice of Variation with the new Tenancy Agreement.

Officer responsible for effecting the decision:

Chief Officer (Health & Housing)

Reasons for making the decision:

The decision supports the Council's objectives including delivering value for money, customer focused services, supporting sustainable communities and to continue to improve the Council and the proposal is contained within the Services' agreed service business plan for 2017/18.

Cabinet received a report from the Chief Executive presenting the draft Review of 2017/18 and sought Cabinet's approval to finalise and publish the document.

Whilst no options were provided as the report was primarily for noting, it was agreed that the 'snapshot of our services' be combined with 'our achievements' to avoid repetition. The Review of 2017-18 summarised the Council's performance against its strategic objectives, categorised according to the priorities stated in the Corporate Plan 2016-20. (Community Leadership, Health & Wellbeing, Clean and Green Places and Sustainable Economic Growth.) It was noted that the priorities had now been superseded by the adoption of Ambitions: Our Council Plan 2018-22).

Councillor Blamire proposed, seconded by Councillor Whitehead:-

"That the recommendation, as set out in the report, be approved."

Councillors then voted:-

Resolved unanimously:

- (1) That the content of the draft Review of 2017-18 be approved and published.

Officer responsible for effecting the decision:

Chief Executive

Reasons for making the decision:

The decision is consistent with the commitment within the Council Plan 2018-22 of a Smart and Forward-Thinking Council to 'be open, transparent and accountable about how we are performing.'

39 PERFORMANCE MONITORING : QUARTER 1 - 2018-19

(Cabinet Member with Special Responsibility Councillor Blamire)

Cabinet received a report from the Chief Executive to report on the key indicators for April to June 2018 (Quarter 1).

As the report was primarily for noting and comments, no options were provided. It was reported that work was underway to provide easy to interpret, sensible performance indicators, which linked with the Council Plan.

Resolved unanimously:

- (1) That the report be noted.

Chairman

(The meeting ended at 6.20 p.m.)

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ebateson@lancaster.gov.uk**

MINUTES PUBLISHED ON Monday 10 SEPTEMBER 2018.

**EFFECTIVE DATE FOR IMPLEMENTING THE DECISIONS CONTAINED IN THESE MINUTES:
TUESDAY 18 SEPTEMBER, 2018.**