



**LANCASTER**  
**CITY COUNCIL**

*Promoting City, Coast & Countryside*

# **THE CONSTITUTION**

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# **PART 1**

## **SUMMARY AND EXPLANATION**

## Summary and Explanation

### 1 THE COUNCIL'S CONSTITUTION

- 1.1 Lancaster City Council (usually referred to in this Constitution as simply "the Council") has agreed a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 1.2 Generally speaking the Council will exercise its powers and duties in accordance with the Constitution, unless the law requires the Council to do something else or the relevant provisions are waived.
- 1.3 We have also included hyperlinks to other documents/sites where we think this will be helpful. All hyperlinks are coloured [blue like this](#) and are underlined.

### 2 WHAT IS IN THE CONSTITUTION?

- 2.1 The Constitution has six parts.
  - 2.1.1 **Part 1** is this introduction, summary and overview.
  - 2.1.2 **Part 2** deals sets out which parts of the Council are responsible for carrying out the various functions of the Council.
  - 2.1.3 **Part 3** contains the various rules of procedure which govern how the Council conducts its business, including how it makes decisions and how meetings are conducted.
  - 2.1.4 **Part 4** includes codes and protocols that govern how members of the Council (also known as and Councillors) and employees of the Council (also known as "Officers") must behave in performing their duties.
  - 2.1.5 **Part 5** is the Councillors Allowance Scheme, which sets the level of financial allowances which Councillors receive for performing their duties.
  - 2.1.6 **Part 6** is a glossary which explains some of the terminology used in this document.
- 2.2 There are a number of other codes, protocols and policy documents which govern how the Council operates which do not form part of this Constitution. Where this document refers to these documents, they will be made available on the Council's website via a hyperlink.

### 3 COUNCILLORS AND THE COUNCIL

- 3.1 The Council is made up of 60 Councillors. Councillors are elected by and are democratically accountable to residents of their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. Only registered voters of the district or people living or working here are eligible to stand to be elected as a Councillor.
- 3.2 The regular election of councillors is usually held on the first Thursday in May every four years, for all Councillors at once. The term of office of Councillors starts on the fourth day after being elected and will finish on the fourth day after the date of the next regular election (except for the Mayor and Deputy and the Leader and Deputy whose term of office continues until the following Annual Meeting even if they are not re-elected).

- 3.3 A full list of Councillors' names, addresses and telephone numbers, term of office, and their membership of political groups is available [here](#) on the Council's website along with details of the committees and bodies on which they serve.
- 3.4 Councillors have the following roles and functions:
- 3.4.1 Collectively deciding the Council's Budget and Policy framework and carrying out a number of other strategic functions;
  - 3.4.2 Initiating and scrutinising policy;
  - 3.4.3 Representing their communities and bringing their views into the Council's decision-making process i.e. becoming the advocate of and for their communities;
  - 3.4.4 Contributing to the good governance of the area, encouraging community participation;
  - 3.4.5 Dealing with individual casework and acting as an advocate for constituents in resolving particular concerns or grievances;
  - 3.4.6 Balancing different interests identified within the ward and representing the ward and the Council as a whole;
  - 3.4.7 Maintaining the confidentiality of confidential and exempt information and assisting to ensure transparency of information that is publicly available (otherwise there may be a breach of the Councillors' Code of Conduct);
  - 3.4.8 Being involved in decision-making;
  - 3.4.9 Being available to represent the Council on other bodies; and
  - 3.4.10 Promoting and maintaining the highest standards of conduct and ethics.
- 3.5 Councillors have agreed to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee and Monitoring Officer advise Councillors on the Code of Conduct; promote high standards of behaviour; and monitor standards of conduct. The Council maintains a [register of interests](#) declared by Councillors which is open to inspection by members of the public and available on the Council's website.
- 3.6 All Councillors meet together as members of the Council. Here, Councillors approve the Constitution and any amendments to it, the Council's overall policies and set the budget each year. A range of committees are established to deal with regulatory functions such as planning and licensing. Meetings of the Council and other decision-making bodies are normally open to the public, except where personal or confidential matters are being discussed. Meetings are held in accordance with the Procedure Rules in **Part 3**. Further information about the different types of decision and how they are made are set out in points 4 and 9 below.
- 3.7 There are three different types of Council meeting:
- The Annual Meeting of the Council, which will usually be held in May;
  - Ordinary meetings; and
  - Extraordinary meetings, which will be called as and when required in accordance with the Council Procedure Rules.

You can find details of the calendar of Full Council and other meetings on the [Council's website](#).

- 3.8 Councillors are entitled to receive allowances in accordance with the Councillors' Allowances Scheme set out in **Part 5** of this Constitution.
- 3.9 The Council has adopted an executive form of governance comprising a Leader and Cabinet, responsible for certain decisions such as policy matters outside the budget and policy framework, housing matters, land and property and economic regeneration. In the case of Cabinet Members, their portfolio areas of responsibility are [available here](#).
- 3.10 The Council elects the Mayor and the Leader and agrees the representation on Council Committees, the Overview and Scrutiny Committee and the Budget and Performance Panel, with representation on each committee allocated in accordance with **political balance** rules.

#### **4 DECISION MAKING AND THE CABINET**

- 4.1 The Cabinet (also known as the "Executive") is the part of the Council, which is responsible for taking executive decisions and implementing the Council's Budget and Policy Framework.
- 4.2 The Leader appoints the Cabinet, of up to 9 additional Councillors, who do not have to be appointed in political balance. The Council has decided that it will re-elect the Leader of the Council every two years, rather than every four years. This is subject to a Leader resigning or being disqualified from office as a Councillor or a vote of Full Council to remove the incumbent, which may happen before the end of the two year term.
- 4.3 Executive decisions may also be taken by the Leader, a committee of Cabinet, individual Cabinet Members or by Officers under the Scheme of Delegation.
- 4.4 The Cabinet has to make decisions that are in accordance with the Council's overall policies and budget. If it wishes to make a decision that is outside the budget or policy framework, this must be referred to the Council as a whole to decide.
- 4.5 Where Cabinet intends to discuss any matter in private, a notice will usually be published 28 days before the meeting and a further notice will be published when the agenda for the meeting becomes available.
- 4.6 When "**Key Decisions**" are to be discussed or made (usually executive decisions involving expenditure of over £150,000 for Directors, over £200,000 for the Chief Executive and £250,000 for individual Cabinet Members and/or affecting two or more wards) then special notice procedures must be followed – usually 28 days' public notice is given (although there are special rules where this is not possible). These are set out in the Access to Information Procedure Rules in **Part 3 Section 4**.
- 4.7 Some decisions as a matter of law are not executive decisions. These decisions include planning, licensing and personnel matters. The Council has standing regulatory and other committees to deal with these matters.

#### **5 OVERVIEW AND SCRUTINY**

- 5.1 The Overview and Scrutiny Committee, Budget and Performance Panel and Task Groups support the work of the Cabinet and the Council as a whole. They allow the public to have a greater say in Council matters by holding public reviews/inquiries into matters of local concern. Individual Councillors may ask for items related to Council functions to be placed on the agenda of such bodies. These lead to reports and recommendations that advise the Cabinet and the Council as a whole on its policies, budget and service delivery.

- 5.2 The Overview and Scrutiny Committee also monitors the decisions of the Cabinet. Non-Cabinet Members can ‘call-in’ a decision that has been made by the Leader or Cabinet or **Key Decisions** made by Officers, but not yet implemented. This enables the Overview and Scrutiny Committee to consider whether the decision is appropriate. The Committee may recommend that the Cabinet reconsider its decision.
- 5.3 The Overview and Scrutiny Committee, Budget and Performance Panel and Task Groups may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy. (Any of these meetings may be referenced as overview and scrutiny meetings in this Constitution).

## **6 THE COUNCIL'S STAFF**

- 6.1 The Council employs Officers to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers are employees; others may be appointed under a contract for services; or through an agency.
- 6.2 Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Council must have at least the three statutory Officers: a Head of Paid Service responsible for the Council's Officers (in Lancaster this is the Chief Executive); a Chief Finance Officer, responsible for the proper administration of the Council's financial affairs; and a Monitoring Officer responsible for reporting upon illegality and maladministration (the Legal and Democratic Services Manager and Monitoring Officer).
- 6.3 A protocol governs the relationship between Officers and Councillors (in **Part 4** of this Constitution).

## **7 THE ROLE OF THE MAYOR**

- 7.1 The Mayor is the first citizen of the City of Lancaster. The Mayor serves for a one-year term of office. He or she has the following roles and functions (which in his/her absence shall be carried out by the Deputy Mayor). He or she will:
- 7.1.1 promote public involvement in the Council's activities;
  - 7.1.2 promote the Council as a whole, acting as a focal point for the community, attending such civic and ceremonial functions and fulfilling such civic duties as the Council and he/she determine to be appropriate;
  - 7.1.3 preside over meetings of the Council so that Council business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community, including deciding the order of business;
  - 7.1.4 ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet are able to hold the Cabinet and committee Chair-persons to account;
  - 7.1.5 keep order at Council meetings and ensure that Councillor behaviour is of the highest standard and does not bring the Council into disrepute;
  - 7.1.6 exercise a second or casting vote in the event of a tie;
  - 7.1.7 uphold and promote the purposes of the Constitution, and, subject to the advice and guidance of the Director of Corporate Services, during Council meetings interpret the Constitution as and when necessary;

- 7.1.8 when in debate or question time read the sense of the meeting and when in the Mayor's belief debate or questions already put shall have represented the views of the Council, the Mayor shall intervene to move to the next business under the procedure rules in **Part 3**; and
- 7.1.9 produce a review of the year report usually submitted to Council towards the end of the municipal year (normally at the April Council which precedes the Annual Council in May).
- 7.2 The Mayor is a Member of the Council elected by Councillors at the Annual Meeting of the Council.
- 7.3 Selection of the Mayor of the City is undertaken on the basis of seniority and the longest serving Councillor (determined in accordance with 7.5 below) shall be invited to be Mayor providing that the Councillor has not previously declined the offer of being Mayor on more than one previous occasion. The invitation shall be made not later than the Council meeting held in the February before Annual Council.
- 7.4 A Councillor who has declined the offer made above shall, unless otherwise agreed by Council, not be eligible to be re-offered the Office of Mayor for a period of five years and shall be replaced accordingly in the list of seniority.
- 7.5 Seniority is determined by the date of a Councillor's election to the Council. Where Councillors are elected upon the same day, the question of seniority shall be determined by ballot (to which the persons interested shall have notice to attend).
- 7.6 Where a Councillor has already been Mayor, then that Councillor shall not be offered a second term of office until all other Councillors with equal seniority have been offered an opportunity to be Mayor.
- 7.7 Where a Councillor, whose seniority has already been determined, ceases to be a Member of the Council and is then re-elected, his or her seniority shall be based on total service as a City Councillor, notwithstanding there may have been a break.
- 7.8 The Deputy Mayor is selected by the Mayor and appointed by Council.

## **8 RIGHTS OF MEMBERS OF THE PUBLIC**

- 8.1 Members of the public, service users and residents have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureaux can advise on individuals' legal rights.
- 8.2 Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in the Constitution.
- 8.3 Members of the public have the right to:
- 8.3.1 vote at local elections if they are registered on the electoral roll;
- 8.3.2 stand for election as a Councillor if they live or work in the Council's area;
- 8.3.3 present [petitions](#) in accordance with the Council's Rules (including petitioning to request a referendum on an elected Mayoral form of executive);
- 8.3.4 contact their local Councillors about any matters of concern to them relating to functions of the Council;



- 8.3.5 attend surgeries held by ward Councillors;
- 8.3.6 be consulted as individuals on certain changes to service delivery, where invited, although the Council is not always obliged to consult on service changes. The Council may have a duty to consult under specific legislation; or to consult representatives of the public and service users in connection with the Council's **best value** duty (usually there is a meeting that members of the public can attend to discuss the Council's draft budget and sometimes the budget for the County Council too);
- 8.3.7 access information in the following ways:
- (a) attend meetings of the Council, Cabinet or Committees except for that part of a meeting where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (b) find out from the notices of forthcoming **Key Decisions** what **Key Decisions** will be taken by the Cabinet and when;
  - (c) see reports and background papers, and any records of decisions made by the Council and the Cabinet (except where those reports and papers contain confidential or exempt information); and
  - (d) inspect the Council's accounts and make their views known to the external auditor.
- 8.3.8 Participate in meetings, under the direction of the Chair and in accordance with the procedure rules set out in **Part 3**, in the following ways:
- (a) Addressing meetings of Full Council. Members of the public may ask questions in Council under Rule 11 of **Part 3 - 1** of this Constitution if prior notice is given;
  - (b) Addressing meetings of Cabinet under Rule 2.7 of **Part 3 - 2** of this Constitution if prior notice is give;
  - (c) In Planning Regulatory Committee in accordance with the Council's [Public Participation Scheme](#);
  - (d) Making representations to the Licensing Committee as applicants or objectors in respect of individual applications; and speaking at Licensing Committee meetings on certain items in accordance with the Council's [Public Participation Scheme](#);
  - (e) Contributing to research or reviews undertaken by the Overview and Scrutiny Committee and Budget and Performance Panel;
  - (f) Where invited, participating in Cabinet Liaison Meetings; and
  - (g) Reporting on the proceedings at open meetings of the Council, Cabinet and Committees by filming, photographing, audio-recording or by any other means, and providing written commentaries during a meeting and oral commentaries outside of a meeting.
- 8.4 Anyone may make a complaint to:
- (a) the Council (under the Council's Complaints Scheme);

- (b) the Local Government and Social Care Ombudsman after having first used the Council's own [complaints procedure](#) and given the Council a chance to respond to the complaint. The Ombudsman will normally allow the Council 8 to 12 weeks for a response, but the Ombudsman may get involved earlier if there are extenuating circumstances; or
- (c) the Monitoring Officer about an alleged breach of the Councillors' Code of Conduct by a Councillor.

8.5 The Council welcomes participation by the public, service users and residents. However, individuals must not be violent, abusive or threatening to Councillors or Officers and must not wilfully harm them or things owned by the Council, Councillors or Officers. For further information about public participation, please contact the Democratic Services Manager at Lancaster Town Hall or e-mail [democracy@lancaster.gov.uk](mailto:democracy@lancaster.gov.uk)

## **9 DECISION MAKING**

9.1 The Local Government Act 2000 ("the 2000 Act") divides functions of the Council into two categories; executive and non-executive. Non-executive functions (or Council functions) are specified in Regulations issued under the 2000 Act and include functions such as those relating to staff, planning and licensing. Non-executive functions may be delegated to committees, sub-committees or Officers under section 101 of the Local Government Act 1972 ("the 1972 Act"). Unless specified as a non-executive function, a function is presumed to be an executive function.

9.2 Decisions on executive functions may be taken by the Leader, the Cabinet or delegated to a committee of Cabinet, a portfolio holder or an Officer, under the Local Government Act 2000.

9.3 The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decision or decisions relating to particular areas or functions. This record is set out in **Part 2** of this Constitution, along with schemes of further delegation maintained by the Council's Chief Officers.

9.4 Where a function is delegated under this Constitution, that does not prevent the person or body that has delegated the function from exercising the function concurrently, for example in the absence of a delegatee making a decision.

9.5 Decisions will usually be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation where required and based on professional advice from Officers;
- (c) respect for human rights and equality of opportunity;
- (d) a presumption in favour of openness;
- (e) a clear explanation of aims and desired outcomes; and
- (f) a summary of what options have been considered giving reasons for the decisions.

9.6 When decisions are taken the decision record and/or minutes must be produced which will include the following information:

- (a) Who took the decision (the person or body);

- (b) the details of the decision including the date it was made;
- (c) the reasons for the decision;
- (d) a summary of any alternative options considered and rejected by the officer, member or decision-making body when the decision was made;
- (e) details of any conflict of interest relating to the matter decided declared by any member of the decision-making body or by a member who is consulted by the officer or member who made the decision; and
- (f) in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer or Standards Committee.

9.7 The City Council supports transparency of decision-making in the public interest.

## **10 DUTY TO MONITOR AND REVIEW THE CONSTITUTION**

10.1 Full Council adopts the Constitution.

10.2 The Monitoring Officer will monitor and review the operation of the Constitution on a regular basis, in order to ensure that it is up to date and is empowered to make changes to ensure that:

- (a) legislative references are updated;
- (b) it reflects the Councils structures and decision-making requirements;
- (c) consequential amendments are made as a result of Council decisions; and
- (d) any other required changes are made.

10.3 Audit Committee and Council Business Committee may amend parts of the Constitution as set out in their Terms of reference in **Part 2** and the table below.

10.4 The Leader may amend and/or update the Executive arrangements at any time and shall notify the Monitoring Officer of any changes.

10.5 The above powers to amend the Constitution are summarised in the table below.

<b>Parts of the Constitution</b>	<b>Who has the power</b>
Financial Procedure Rules in <b>Part 3</b>	Audit Committee
Contract Procedure Rules in <b>Part 3</b>	Audit Committee
Executive arrangements	Leader of the Council
Responsibility for non-executive functions	Council
Non-executive arrangements and procedures	Council or Council Business Committee
As per 10.2 (a) – (d) above	Monitoring Officer

**11 SUSPENSION OF THE CONSTITUTION**

- 11.1 Any part of the Constitution may be waived or suspended by Full Council (or the Cabinet in relation to Executive functions) to the extent permitted within the Procedure Rules in **Part 3** and the law.

**12 PUBLICATION**

- 12.1 Copies of the Constitution are available to view on the [Council's website](#) or in hard copy from Democratic Services, or by e-mail to [democracy@lancaster.gov.uk](mailto:democracy@lancaster.gov.uk)

# PART 2

## RESPONSIBILITY FOR FUNCTIONS

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## Part 2 – Section 1

### Management Structure Chart of Decision Making Bodies

#### **Management Structure<sup>1</sup>**

##### **Director for Communities and the Environment**

- Repairs and Maintenance Manager
- Operations Manager (Public Realm)
- Business Support Manager
- Home Improvement Agency Manager
- Public Protection Group Manager
- Waste and Recycling Manager
- Deputy Director for Communities and the Environment
- Housing Standards Manager
- Principal Housing Options Manager
- Council Housing Building Programme Manager
- Sport and Leisure Manager
- Customer Services Manager

##### **Director for Economic Growth and Regeneration**

- Regeneration Manager
- Economic Development Manager
- Planning Manager

##### **Director of Corporate Services**

- Chief Finance Officer
- HR Project Manager
- HR Service Manager
- Interim Legal and Democratic Services Manager and Monitoring Officer

##### **Assistant Chief Executive**

- ICT Operations Manager
- ICT Development Manager
- Senior Property Officer
- Programme Manager
- ICT Manager

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<sup>1</sup> To be converted into a structure chart when finalised

Also to note which posts are JNC Chief Officer Posts

**Diagram of Decision Making Bodies<sup>2</sup>**

Council	Independent Remuneration Panel Council Business Committee
Cabinet	Overview and Scrutiny Committee Budget and Performance Panel
Licensing Committee	
Planning Regulatory Committee	
Personnel Committee Independent Persons Panel	
Appeals Committee Audit Committee Standards Committee	
Joint Committee for Revenues and Benefits	

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<sup>2</sup> To be converted into a structure chart when finalised  
Part 2 – Responsibility for Functions  
Section 1

## Part 2 – Section 2

### The Council

#### 1 FUNCTIONS OF FULL COUNCIL

- 1.1 The following functions are the responsibilities of the Council and will be discharged by Full Council (all Councillors meeting together) unless delegated to a committee, sub-committee or an Officer. Non-executive functions may still be exercised by the Council even where delegated to a Committee, Sub-Committee, body or Officer elsewhere in this Constitution, subject to specific exceptions (for example Licensing Sub-Committee).
- 1.2 The Full Council is the body responsible for:
- 1.2.1 Electing the Mayor and appointing the Deputy Mayor;
  - 1.2.2 Electing every two years the Leader of the Council;
  - 1.2.3 Appointing the Chair for each Council Committee;
  - 1.2.4 Appointing the [Father/Mother of the Council](#);
  - 1.2.5 Agreeing and/or amending the terms of reference for Committees and the Budget and Performance Panel, deciding on their composition (and where required their political balance);
  - 1.2.6 Agreeing the basis on which appointments to outside bodies should be made and appointing to outside bodies except where appointment to those bodies is a Cabinet function or has been otherwise delegated;
  - 1.2.7 Adopting the Constitution and making significant changes to the Constitution;
  - 1.2.8 Approving and adopting the Budget and Policy Framework;
  - 1.2.9 Making decisions about any matter in the discharge of a Cabinet function where the Cabinet is minded to make the decision contrary to the policy framework or not wholly in accordance with the budget (subject to urgency procedures in **Part 3**);
  - 1.2.10 Determining any matter which is referred to it for determination by a Committee or Sub-Committee;
  - 1.2.11 Adopting a Members' Allowances Scheme following a report from the Independent Remuneration Panel;
  - 1.2.12 Changing the name of the area, and conferring the title of Honorary Alderman or Freedom of the City (as an Honorary Freeman);
  - 1.2.13 Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
  - 1.2.14 Approving the Annual Pay Policy Statement;
  - 1.2.15 Exercising certain functions in relation to Parishes and Parish Councils, including making Orders pursuant to Community Governance Reviews;



- 1.2.16 Making payments or providing other benefits in cases of maladministration under Section 92 of the Local Government Act 2000;
  - 1.2.17 Designating a post as the Head of Paid Service (Chief Executive), appointing the post-holder and providing staff under Section 4(1) of the Local Government and Housing Act 1989;
  - 1.2.18 Appointing an Officer with responsibility for the proper administration of financial affairs under Section 151 of the Local Government Act 1972;
  - 1.2.19 Designating a post as the Monitoring Officer and providing staff under Section 5(1) of the Local Government and Housing Act 1989;
  - 1.2.20 Dismissing the Chief Executive, Monitoring Officer or Chief Finance Officer;
  - 1.2.21 Appointing the Electoral Registration Officer and Returning Officer and exercising all other functions relating to elections including under the Representation of the People Act 1983;
  - 1.2.22 Exercising all functions relating to local government boundaries;
  - 1.2.23 Designating areas where public drinking may be restricted under the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007;
  - 1.2.24 Designating streets for street trading under the Local Government (Miscellaneous Provisions) Act 1982;
  - 1.2.25 Determining whether functions which are classified as “Local Choice” functions should be reserved to the Council or exercised by Cabinet;
  - 1.2.26 Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills; and
  - 1.2.27 All other matters which by law are reserved to the Council.
- 1.3 Where Full Council delegates functions to Committees, sub-committees and decision-making bodies under this constitution, nominations to those committees, and changes to such nominations, shall be notified by the relevant Group Leader or Group Whip in writing or by email to the Director of Corporate Services and shall thereafter be published on the Council’s website. Such nominations shall be in accordance with the relevant **political balance** and numerical allocations determined by Council in relation to the body in question.

## **2 BUDGET AND POLICY FRAMEWORK**

- 2.1 The budget framework includes the allocation of financial resources to different services and projects, the setting of virement limits (that is the transfer of funds between budget heads) and carry forward limits for budgets, proposed contingency funds and other provisions and reserves, council tax setting and other local taxation matters and decisions relating to the Council’s treasury management activities including investments, borrowing limits and the control of capital expenditure. The budget framework is set out in the following:
- 2.1.1 Medium Term Financial Strategy;
  - 2.1.2 Treasury Management Framework (including relevant policies and strategies); and
  - 2.1.3 Capital and Investment Strategies.

### **Policy Framework**

- 2.2 By law, the Council must have a policy framework. This is a list of plans and strategies which are relevant to the Council's functions and are required by law to be decided by the Full Council, usually on the recommendation of the Cabinet, supplemented by other plans and strategies that the Council wishes to add.
- 2.3 The Policy Framework comprises:
- 2.3.1 The Corporate Plan;
  - 2.3.2 The **Crime and Disorder Reduction Strategy**<sup>3</sup> and Community Safety Agreement;
  - 2.3.3 The Local Development Plan and Development Plan Documents;
  - 2.3.4 Licensing Authority Policy Statement;
  - 2.3.5 Gambling Authority Policy Statement; and
  - 2.3.6 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 Council rather than the Cabinet.

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<sup>3</sup> Confirm the title locally

**Part 2 – Section 3**

**Local Choice Functions**

**3 ALLOCATION OF LOCAL CHOICE FUNCTIONS**

3.1 Schedule 2 of the Local Authorities (Functions and Responsibilities) Regulations 2000 makes provision for certain functions, sometimes known as “local choice functions” to be either executive or non-executive functions. The Council has determined that the responsibilities shall be allocated as follows.

<b>Functions to be the responsibility of the Leader and Cabinet</b>	<b>Further delegation</b>
The determination of an appeal against any decision made by or on behalf of the Cabinet	Directors in accordance with Council procedures
Any function related to contaminated land that arises in connection with executive functions	Directors
The discharge of any function relating to the control of pollution or the management of air quality that arises in connection with executive functions	Director for Communities and the Environment
The service of an abatement notice in respect of a statutory nuisance	Director for Communities and the Environment
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area	
The inspection of the Council's area to detect any statutory nuisance	Director for Communities and the Environment
The investigation of any complaint as to the existence of a statutory nuisance	Director for Communities and the Environment
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Directors
The appointment of any individual to any office or outside body where the appointment is made by virtue of the individual's membership of Cabinet or relating to an executive function (and revocation)	
The making of agreements with other local authorities for the placing of staff at the disposal of those authorities	Directors
Local Act functions other than a function specified or referred to in Regulation 2 or Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and other than any other function where the power relates to the granting of a consent, licence, permission registration or similar function.	
<b>Functions to be the responsibility of the Council and its committees</b>	<b>Further delegation</b>
The determination of an appeal against any decision made by or on behalf of the Council	Directors in accordance with Council procedures
Any function related to contaminated land that arises in connection with non-executive functions	Directors
The discharge of any function relating to the control of pollution or the management of air quality that arises in connection with non-executive functions	Director for Communities and the Environment
Obtaining information under section 330 of the Town and Country Planning Act 1990 as to interests in land	Directors
The appointment of any individual to any office other than an office in which he or she is employed by the Council, or to any outside body where the appointment is a non-executive function (and revocation)	Council Business Committee

## **Part 2 – Section 4**

### **Executive Arrangements and the Cabinet**

#### **4 ROLE OF CABINET**

- 4.1 The Leader and Cabinet will carry out the Council's executive functions. Functions that are not stated in the Local Authorities (Functions and Responsibilities) Regulations 2000 or in other legislation to be non-executive functions are, by default, executive functions.

#### **5 FORM AND COMPOSITION**

- 5.1 The Cabinet comprises the Leader of the Council together with up to nine other Councillors, all appointed by the Leader.
- 5.2 Neither the Leader nor any Member of the Cabinet may be appointed to the Budget and Performance Panel nor any Overview and Scrutiny Committee, Panel or Task Group established by the Committee.
- 5.3 Neither the Mayor nor the Deputy Mayor may be elected as Leader or appointed to the Cabinet.
- 5.4 The Leader and Members of the Cabinet can sit on any Regulatory/other Standing Committees of the Council (with the local exception that the Leader shall not sit on the Standards Committee). Members of the Cabinet can Chair Regulatory Committees, but should not be in a majority.
- 5.5 The Leader decides the executive scheme of delegation and may authorise a Committee of Cabinet, Portfolio Holders, or Officers to exercise executive functions from time to time.

#### **6 FUNCTIONS OF THE CABINET**

- 6.1 The functions of the Cabinet shall be as follows:
- 6.1.1 Within the Budget and Policy Framework set by the Full Council, the Rules of Procedure and the Financial Regulations, to discharge the Council's executive powers, duties and responsibilities.
- 6.1.2 On an annual basis, to draw up proposals for the City Council's Revenue Budget, Capital Programme, Treasury Management Policy and Council Tax levels and in doing so to consult with the Budget and Performance Panel for consideration and determination by Full Council.
- 6.1.3 To prepare draft Budget and Policy Framework documents and in so doing to consult with the Overview & Scrutiny Committee and to include in its submission to the Full Council a statement of views received and the Cabinet response to those views.
- 6.1.4 To approve or adopt non-development plan documents prepared under the Local Development Framework and to modify, revise, revoke or withdraw a development plan document where such modification, revision, revocation or withdrawal is required to give effect to a direction of the Secretary of State under the Planning and Compulsory Purchase Act 2004, is recommended by a person carrying out an independent examination under Section 20 of the 2004 Act, or is authorised by a determination made by Full Council when approving or adopting the development plan document.

- 6.1.5 To be responsible for promoting the economic, social and environmental well-being of the area.
- 6.1.6 To refer to the Full Council for determination all matters which are not in accordance with the Budget and Policy Framework adopted by the Full Council, except matters of urgency which shall be dealt with in accordance with the procedures set out in **Part 3 section 4**.
- 6.1.7 To undertake a continuing review of the City Council's broad policy objectives and priorities over the whole range of its functions and to secure a continuous review and evaluation of the effectiveness of services and demonstrate that the City Council is delivering those services in accordance with the principles of Best Value, calling upon the overview and scrutiny function to assist in that process as it considers appropriate.
- 6.1.8 To report to the Full Council at each scheduled meeting on the proceedings of the Cabinet including a summary of all **Key Decisions** taken.
- 6.1.9 To report to the Full Council, where appropriate, on any matters which Council or Overview and Scrutiny Committee or Budget or Performance Panel have requested.
- 6.1.10 The Leader and each Member of the Cabinet will present a business progress report annually in writing to Council usually at the meeting preceding Annual Council.
- 6.1.11 To take any urgent action necessary in the event of a civil emergency and to determine general policy matters at such times.
- 6.1.12 To consider all Bills introduced into Parliament and all Acts passed, which affect the interests of the City Council and pursue any changes in the law which it feels appropriate and make recommendations to the Full Council involving significant policy issues.
- 6.1.13 To delegate executive functions as appropriate to Cabinet Committees, Joint Committees, other authorities, Portfolio Holders or Officers.

## **7 LEADER**

- 7.1 The Leader will be a Councillor elected for a two year term to the position of Leader by simple majority of the Council. In the event that only one nomination is put forward a vote will still be taken.
- 7.2 The Leader will hold office until:
  - 7.2.1 He/she resigns from the office; or
  - 7.2.2 He/she is disqualified or is otherwise no longer a Councillor; or
  - 7.2.3 He/she is removed from office by motion of Full Council that requires the support of a simple majority of those Councillors present; or
  - 7.2.4 The Annual Council arising around two years after the term begins, when the position of Leader is elected by simple majority for the next two years.

- 7.3 If the Council passes a resolution to remove the Leader, the Council shall elect another Councillor as Leader at the meeting at which the Leader is removed from office, or at a subsequent meeting of the Council. If there is a vacancy in the office of Leader for any other reason, the Council shall elect another Councillor as Leader at the first Council meeting after the vacancy occurs.
- 7.4 A Cabinet Member will hold office until:
- 7.4.1 He/she resigns from the office; or
  - 7.4.2 He/she is disqualified or is otherwise no longer a Councillor; or
  - 7.4.3 He/she is removed from office, either individually or collectively, by the Leader.

## 8 RESPONSIBILITIES OF THE LEADER

- 8.1 The Leader shall:
- 8.1.1 Nominate a Deputy Leader.
  - 8.1.2 Determine the size of, appoint Councillors to, preside over and provide leadership and direction to the Cabinet.
  - 8.1.3 Exercise any executive functions and determine how the executive functions of the Council are to be exercised in the scheme of delegation, including to [Portfolio Holders](#).
  - 8.1.4 Represent the Authority as Leader of the Council.
  - 8.1.5 Co-ordinate the decision-making process of the Cabinet and its Committees within the Budget and Policy Framework agreed by the Council.
  - 8.1.6 Co-ordinate the Cabinet's preparation of draft proposals to amend or update the Budget and Policy Framework.
  - 8.1.7 Co-ordinate the preparation of the annual budget.
  - 8.1.8 Co-ordinate the continuous review and evaluation of the effectiveness of service provision within the Council and request the Overview and Scrutiny Committee or Budget and Performance Panel to assist where appropriate.
  - 8.1.9 Liaise with the Overview and Scrutiny Committee and the Budget and Performance Panel.
  - 8.1.10 Report to each Full Council meeting on the proceedings of the Cabinet. The report shall include a summary of all **Key Decisions** taken by the Cabinet, its Committees and Officers.
  - 8.1.11 Prepare a quarterly report to Full Council setting out decisions taken under the general exception and special urgency procedures in **Part 3 Section 4**.
  - 8.1.12 Answer questions at Full Council in accordance with the Council's procedures for Question Time.
  - 8.1.13 Present a Business Progress Report annually in writing to the Council.

## **9 MEETINGS OF THE CABINET AND ITS COMMITTEES**

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

## **10 PROCEEDINGS OF THE CABINET**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedures Rules set out in **Part 3 Section 2** of this Constitution.

## **11 INDIVIDUAL CABINET MEMBER DECISIONS**

- 11.1 Cabinet Members shall have the responsibilities as determined by the Leader from time to time.
- 11.2 Individual Cabinet Members shall have delegated authority to take **Key Decisions** within their portfolio, in accordance with the Cabinet Procedure Rules set out in **Part 3** of the Constitution.
- 11.3 Details of [current Cabinet Members](#) and their roles are available on the Council's website.

## Part 2 – Section 5

### Committees of the Council

The Council has the following Committees:

- 1 Licensing Committee
- 2 Licensing Sub-Committee(s)
- 3 Planning Regulatory Committee
- 4 Personnel Committee
- 5 Appeals Committee
- 6 Audit Committee
- 7 Standards Committee
- 8 Council Business Committee
- 9 Overview and Scrutiny Committee
- 10 Budget and Performance Panel
- 11 Independent Persons Panel
- 12 Independent Remuneration Panel
- 13 Joint Committee for Revenues and Benefits

#### Notes:

1. Committees may appoint Sub-Committees and delegate functions to Sub-Committees or Officers.
2. The Chair of each Committee is usually appointed by the Council and the Vice Chair is appointed by the Committee at its first meeting each municipal year. The Chair of a Sub-Committee may be appointed by the Committee or Sub-Committee.
3. All Councillors shall undertake mandatory induction training to include:
  - equalities;
  - promoting and maintaining high standards of conduct;
  - information law and General Data Protection Regulation (GDPR);
  - safeguarding/child sexual exploitation;
  - local government finance; and
  - any specific training required for being appointed to particular staffing or regulatory committees.
4. Councillors who have not undertaken mandatory training shall not be eligible to be counted in the quorum nor be eligible to vote.
5. Changes to the representation on all Committees and Sub-Committees can be made during the course of the year by notice in writing from the relevant group.



## 1 Licensing Committee

**Composition:** 9 Councillors in political balance. Chair appointed by Council annually.

**All Members of the Committee and Councillors attending as Substitutes must:**

- (a) have undertaken mandatory training on the relevant law and procedures which relate to the Committee's work and to include an annual early hours visit with the Licensing Team; and
- (b) undertake further mandatory training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.

### Terms of Reference:

- 1.1 To exercise licensing and registration functions, grant permissions, issue permits, make variations (including rescinding licences), make orders or notices and undertake such other regulatory functions as may be required along with authorising associated enforcement action, including in connection with:
  - 1.1.1 Hackney Carriage and Private Hire Vehicle, Operator and Driver licences under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976;
  - 1.1.2 Caravan Site licensing development/control and moveable dwellings/camping sites;
  - 1.1.3 Sex shops and sex cinemas under the Local Government (Miscellaneous Provisions) Act 1982;
  - 1.1.4 Acupuncture, tattooing, semi-permanent skin colouring, piercing, electrolysis and other health and beauty treatments;
  - 1.1.5 Pleasure boats and pleasure vessels;
  - 1.1.6 Markets and Street Trading licences and consents;
  - 1.1.7 Permissions under Section 115E and Notices under Section 115G of the Highways Act 1980 for the provision of services, amenities, recreation and refreshment facilities on pedestrianised areas;
  - 1.1.8 Food preparation and take-away food shops (including Closing Orders);
  - 1.1.9 Game licensing and food legislation including functions relating to meat, fish, shellfish, dairy, poultry, eggs, butchering and food safety;
  - 1.1.10 Scrap Metal Dealers and motor salvage operators;
  - 1.1.11 Zoos, animals, pets, dog breeding and slaughterhouses;
  - 1.1.12 Street collections, charitable activities and house to house collections;
  - 1.1.13 Loudspeakers, noise and statutory nuisances;
  - 1.1.14 Second-hand goods dealers under the County of Lancashire Act 1984;

- 1.1.15 Health and safety at work legislation enforcement;
  - 1.1.16 Employment of children;
  - 1.1.17 Licensing Act 2003 and Gambling Act 2005 functions including premises related functions;
  - 1.1.18 Gaming and Lotteries and Amusement Act responsibilities;
  - 1.1.19 Public Place Protection Orders; and
  - 1.1.20 Alcohol Disorder Zones
- 1.2 To impose any condition, limitation or other restriction on any approval, consent, licence, permission, order, notice or registration issued or granted, which is the responsibility of the Committee, and to determine any other terms to which it is subject;
  - 1.3 To set the levels of any fee for an approval, licence, consent, permit, notice, order or registration which is the responsibility of the Committee;
  - 1.4 To amend, vary, modify or revoke any approval, consent, licence, permission, order, notice or registration which is the responsibility of the Committee or any condition, limitation or term thereof;
  - 1.5 To discharge any non-executive functions relating to contaminated land, control of pollution, management of air quality or statutory nuisance;
  - 1.6 To develop licensing and gambling policy for consideration by the Cabinet and Council;
  - 1.7 To appoint the Chairpersons of ad-hoc Licensing Sub-Committees as required from time to time; and
  - 1.8 To exercise any functions of the Licensing Sub-Committee that may be appropriate from time to time.

## 2 Licensing Sub-Committee

**Composition: 3 Members of the Licensing Committee.**

**The Licensing Committee will appoint the Chair of the Licensing Sub-Committee and 3 further Councillors to act as Chairs of the Sub-Committees.**

**Each Sub-Committee will comprise a Chair and two other Members of the Licensing Committee and will be empanelled ad-hoc by the Director of Corporate Services (political balance is not required and the two Members may comprise other Licensing Sub-Committee appointed Chairs).**

**Hearings will normally be held at Lancaster Town Hall commencing at 10.30 a.m.**

### Terms of Reference:

- 2.1 To determine applications under the Licensing Act 2003 and the Gambling Act 2005, grant licences, permissions, issue permits, make variations (including rescinding licences), make orders or notices and undertake such other regulatory functions as may be referred from time to time, where objections or representations are received, including the following:

Matters to be dealt with	Sub Committee	Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises	All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc.		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases

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Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases

- 2.2 To give consents for striptease, and to make objections to cinema advertisements and to prohibit films in accordance with former standard public entertainment licence conditions incorporated in premises licences.
- 2.3 Determine matters relating to Hypnotism performances.

### 3 Planning Regulatory Committee

**Composition:** 15 Councillors in political balance. Chair appointed by Council annually.

**Cabinet Members should leave the Committee meeting for items directly related to those which have been previously considered at Cabinet (whether they attended the Cabinet meeting to consider that particular item or not).**

**All Members of the Committee and Councillors attending as Substitutes must:**

- (a) have undertaken mandatory training the relevant law and procedures which relate to the Committee's work; and**
- (b) undertake further mandatory training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.**

**Terms of Reference:**

- 3.1 To exercise the Council's functions relating to town and country planning and development control, highways, footpaths and other rights of way.
- 3.2 To determine applications for planning permission under the Town and Country Planning Act 1990, Listed Building Consent, Conservation Area Consent and related matters and any other planning legislation including granting planning permission for development already carried out and without compliance with conditions previously attached
- 3.3 To decline to determine applications for planning permission.
- 3.4 To determine applications for planning permission made by a Local Authority, alone or jointly with another person, including for the Council itself.
- 3.5 To make determinations, give approvals and agree other matters relating to the exercise of permitted development rights, in so far as not delegated to Officers.
- 3.6 To authorise:
  - 3.6.1 entering into agreements regulating the development or use of land;
  - 3.6.2 issuing certificates of existing or proposed lawful use or development;
  - 3.6.3 granting consents for the display of advertisements;
  - 3.6.4 entry onto land;
  - 3.6.5 the discontinuance of a use of land;
  - 3.6.6 service of a Planning Contravention Notice, Breach of Condition Notice, Building Preservation Notice, Enforcement Notice, Stop Notice, Demolition Notice, Completion Notice, Repairs Notice or any other Notice and take any other related action; and
  - 3.6.7 applications for injunctions restraining a breach of planning control.

- 3.7 To determine applications for Hazardous Substance Consent and related powers.
- 3.8 To require proper maintenance of land and buildings.
- 3.9 To apply for an injunction in relation to a Listed Building and/or execute urgent works in respect of Listed Buildings and buildings in conservation areas.
- 3.10 To exercise powers for the preservation of trees; relating to the protection of important hedgerows; control of high hedges; control advertisements and to make Limestone Pavement Orders.
- 3.11 To exercise the Council's functions under the Highways Act 1980, other than the power to grant permissions under Section 115E and publish Notices under Section 115G of the Highways Act 1980 for the provision of services, amenities, recreation and refreshment facilities on pedestrianised areas (which is a function of the Licensing Committee) including the power to authorise Notices, Orders and enforcement action, consent to or licence activities or take action.
- 3.12 Power to authorise action to deal with public rights of way, footpaths and bridleways including authorising stopping-up or diversion of any highway, footpath, bridleway or extinguishing any public rights of way (including in respect of land held for planning purposes).

### **Member Engagement Forum Pre-Planning Application**

The Forum facilitates the new Level 3 Pre-Application Process for major planning applications, which commenced on 1 May 2017, and provides developers with:

1. A site visit by a Case Officer;
2. A written assessment by the Case Officer, highlighting the findings of the site visit and the main issues;
3. An (optional) follow-up meeting between the developer and the Officer;
4. Presentation by the developer to the [Member Engagement Forum](#).

Pre-application advice is not mandatory and nor does it bind the council to approve or refuse a planning application, but developers find it useful to improve the quality of planning applications and their likelihood of success.

It sets out the council's opinion, discusses matters of policy, provides suggestions for improvement (where possible) and a list of all documents that are required to accompany the planning application.

The Member Engagement Forum is an integral part of the planning process as it provides Members with the opportunity to ask questions of developers, share local knowledge and contribute practical suggestions to any possible problems within their proposed planning application.

By nature the meetings are ad-hoc and typically held within 4 weeks of submission by the Developer.

Membership of the Forum is as follows:

- One representative from each political group on Planning Committee (they can send a substitute, but the substitute must also be a Member of Planning Committee)
- Relevant Ward Councillor(s)
- Parish Council/Civic Society Representative
- Developers/Applicants
- Relevant Officers

### **Level 1 advice**

Level 1 advice involves a desk-based assessment of your proposals. It provides a quicker service but is likely to only be suitable for proposals that require an 'in principle' answer to the prospects of development. To apply for Level 1 advice, submit a [Pre-Application Advice Form PRE-A \(DOC, 207KB\)](#), fee and a site location plan only. You can choose to include further supporting information should you wish.

### **Level 2 advice**

Level 2 advice constitutes 'detailed advice' and the response will include a site visit. It will provide you with a more comprehensive appraisal of the likelihood of obtaining planning permission and, where necessary, include suggestions of how to improve your proposed development scheme. For Level 2 advice, you will need to submit a [Pre-Application Advice Form PRE-A \(DOC, 207KB\)](#), fee, location plan, accurate site survey and an indicative site layout plan, as specified in the [advice guide \(DOCX, 129KB\)](#). If you choose Level Two advice, there is an opportunity for follow-up meetings after the advice has been provided, although an additional fee will apply.

## 4 Personnel Committee

**Composition:** 7 Councillors in political balance. Chair appointed by Council annually. Where the Committee meets to appoint a Chief Executive, Director or Deputy Director (also known as JNC Chief Officers) or appoints a Sub-Committee/Panel to deal with disciplinary, grievance, capability matters or appeals, the Committee will include at least one Cabinet Member.

**All Members of the Committee and Councillors attending as Substitutes must:**

- (a) have undertaken mandatory training on the relevant law and procedures that relate to the Committee's work; and must
- (b) undertake further mandatory training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed to be significant by the relevant Director.

### **Terms of Reference:**

To deal with the appointment of staff and to determine the terms and conditions on which staff are employed. In particular the Committee will:

- 4.1 Develop and review Council policy in respect of human resources, staff and conditions of service including:
  - 4.1.1 Recruitment and retention;
  - 4.1.2 The "Raising Concerns" Whistleblowing, disciplinary, capability, grievance and harassment;
  - 4.1.3 Redeployment, redundancy, early retirement and severance;
  - 4.1.4 Sickness absence;
  - 4.1.5 Employee and organisational development, apprentices; and
  - 4.1.6 Health and Safety and welfare.
- 4.2 Consider and recommend to Council the Annual Pay Policy Statement.
- 4.3 Appoint a Panel including at least one Cabinet Member to consider appeals against dismissal, grading and grievances by JNC Chief Officers (except that there shall be no appeal against dismissal for the Chief Executive, Chief Finance Officer or Monitoring Officer).
- 4.4 Appoint to and make decisions in respect of redundancy and redeployment for JNC Chief Officer posts.
- 4.5 Consider and deal with requests for voluntary severance, including early retirement and/or voluntary redundancy.
- 4.6 Appoint a Panel including at least one Cabinet Member to act as an Appraisal Panel for the Chief Executive; and another as the "Investigation and Disciplinary Committee" referred to in the JNC Conditions of Service for Chief Executives and Chief Officers; to have the power to appoint an independent investigator and independent advisors if required; and to suspend the Chief Executive if considered appropriate. Where the Panel makes a recommendation to Full Council to dismiss a Chief Executive, Chief Finance Officer or Monitoring Officer then the



Independent Persons Panel must meet and consider the matter and prepare a report for Council before any decision to dismiss is considered by Full Council.

- 4.7 The seven members of the Personnel Committee shall represent Lancaster City Council on the [Joint Consultative Committee \(JCC\)](#) as the employer representatives.
- 4.8 Consider and respond to consultation requests in respect of national pay negotiations and determine pay awards.

## **5 Appeals Committee**

**Composition:** 7 Councillors in political balance. Chair appointed by Council annually.

**All Members of the Committee and Councillors attending as Substitutes, must have attended a Member training session on determining appeals.**

**Members of the Planning Regulatory Committee must not sit on the Appeals Committee to decide formal objections to Tree Preservation Orders if they have previously considered a directly related planning application.**

### **Terms of Reference:**

- 5.1 The determination of an appeal against any decision made by or on behalf of the Council, which does not fall within the Terms of Reference of any other Committee.

## 6 Audit Committee

**Composition: 7 Councillors in political balance. Chair appointed by Council annually.**

**The Chair and Vice Chair must not be a Member of the Cabinet or Overview and Scrutiny.**

**The Committee has the right of access to all the information it considers necessary in connection with the work of the Committee and may consult directly with Internal and External Auditors.**

### Terms of Reference

- 6.1 To approve a Statement of Purpose for the Audit Committee having regard to best practice including any Codes published by CIPFA and SOLACE.
- 6.2 To ensure that the Council has a sound system of internal control which—
- (a) facilitates the effective exercise of its functions and the achievement of its aims and objectives;
  - (b) ensures that the financial and operational management of the authority is effective; and
  - (c) includes effective arrangements for the management of risk.
- 6.3 To monitor arrangements for discharging the Council's responsibilities for efficient and effective financial and operational resource management. In pursuing this aim, it will consider:-
- the soundness, adequacy and application of controls;
  - compliance with policies, procedures and statutory requirements;
  - arrangements for safeguarding the Council's assets and interests;
  - the integrity and reliability of management information and financial records; and
  - the economic, efficient and effective use of resources.
- 6.4 To manage, steer, monitor and review all matters relating to Internal and External Audit; to approve Internal and External Audit plans; and to receive the Internal Audit Annual Report.
- 6.5 To receive and consider all scheduled outputs from the External Auditor's work, including the annual Audit Letter.
- 6.6 To receive and review the findings of both Internal and External Audit examinations; ensure that management takes appropriate action to implement agreed recommendations; and remedy any internal accounting, organisational or operational control weaknesses identified.
- 6.7 To review the effectiveness of the systems of internal control annually and approve the Annual control assurance statement and the Annual Governance Statement.
- 6.8 To review compliance with public sector financial and audit standards and guidance, in accordance with the CIPFA Codes and the Accounts and Audit Regulations 2015.

- 6.9 To review and comment upon liaison arrangements between Internal and External Audit with a view to optimising the effective deployment of audit resources.
- 6.10 To evaluate the adequacy and effectiveness of the Council's financial and operational policies and procedures including financial and accounting management and the management of risk through discussions with the External Auditors, Internal Auditors and appropriate Officers.
- 6.11 To consider and endorse amendments to the Council's Financial Regulations and Contract Procedure Rules and, on behalf of Full Council, give instructions to the Chief Finance Officer as may be appropriate.
- 6.12 To approve the annual Statement of Accounts on behalf of Full Council.
- 6.13 To prepare an Annual Report to Full Council setting out the Committee's work and performance during the year and to refer to Council any matters it shall see fit.
- 6.14 To review any issue referred to it by the Chief Executive, Chief Finance Officer, Monitoring Officer or any Council body.
- 6.15 To consider reports from and matters raised by the Local Government and Social Care Ombudsman.
- 6.16 With the Monitoring Officer to monitor and review the operation of the Constitution to ensure the aims and principles of the Constitution are given full effect.
- 6.17 To undertake an annual review of the council's use of the Regulation of Investigatory Powers Act 2000 (RIPA), ensuring compliance with the relevant Codes of Practice.
- 6.18 With the exception of those parts of the Constitution which are assigned specifically to the Council Business Committee, to consider and propose to Council any other amendments to the Constitution as necessary.
- 6.19 To appoint an Audit Panel to make arrangements relating to the appointment of the Council's external auditor under the provisions of the Local Audit and Accountability Act 2014, unless the External Auditor is appointed through Public Sector Audit and Accounts Ltd.

## 7 Standards Committee

**Composition:** 7 Councillors in political balance. Chair appointed by Council annually.

**The Vice Chair to be appointed by the Committee, and to be from a different political group from the Chair.**

### Terms of Reference:

- 7.1 To assist the Council in fulfilling its duty under the Localism Act 2011 to promote and maintain high standards of conduct by Members and co-opted Members of the Council.
- 7.2 To advise the Council on the adoption or revision of its Code of Conduct.
- 7.3 To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice and any changes in the law.
- 7.4 To approve the arrangements for dealing with allegations that a Councillor or a Parish Councillor within the district has failed to comply with the relevant Councillors' Code of Conduct.
- 7.5 To determine whether a Councillor or Parish Councillor has failed to comply with the relevant Code of Conduct.
- 7.6 Where the Committee finds that a failure to comply with the Code of Conduct has occurred, to determine what action, if any, to take and to apply the sanction or recommend to Council to apply an appropriate sanction.
- 7.7 To assist the Council with the appointment of Independent Persons as required by the Localism Act 2011.
- 7.8 To determine any request for a dispensation under Section 33 of the Localism Act 2011, where not determined by the Monitoring Officer or to appeal against a determination by the Monitoring Officer.
- 7.9 To advise the Council on, and review as necessary, the arrangements for dealing with complaints (<https://www.lancaster.gov.uk/information/complaints-comments-and-questions/complaining-about-a-councillor> ) or any local Protocols regulating the conduct of Councillors and to deal with allegations of breach of any such Protocol.
- 7.10 To consider reports referred by the Monitoring Officer, including the Annual Governance Statement submitted to the Audit Committee.
- 7.11 To respond on behalf of the Council to national reviews and consultations on standards related issues.
- 7.12 To consider and make recommendations to the Council on any other matter that may be referred to the Standards Committee relating to the conduct of Councillors.

## **8 Council Business Committee**

**Composition: 7 Councillors in political balance. Chair appointed by Council annually.**

### **Terms of Reference**

- 8.1 To make appointments to Committees and outside bodies (other than those made at Annual Council) or by Cabinet.
- 8.2 To determine the method of response and where necessary agree responses (on behalf of the Council) to requests for responses to consultations made to the Council.
- 8.3 To agree the annual timetable of Lancaster City Council meetings and any other timetabling issues which may arise.
- 8.4 To take urgent decisions on issues which fall within the Terms of Reference of Council, for example regarding Parish Councils, where it would not be practical to convene Full Council and is not prohibited by statute.
- 8.5 To agree amendments to all parts of the Constitution, on a referral from the Audit Committee or Monitoring Officer other than the Responsibility for Functions – (non-executive function changes are reserved to Council and executive functions are decided by the Leader), Financial Regulations and Procedures and Contract Procedure Rules (reserved to Audit Committee) and minor constitutional amendments which are within the responsibility of the Monitoring Officer (see the table at 10.5 in **Part 1**).
- 8.6 To manage issues relating to Elected Members including monitoring training and development undertaken.
- 8.7 To agree civic and ceremonial matters in consultation with the Mayor.
- 8.8 To determine seniority in relation to making an invitation for a Councillor to be proposed as a future Mayor.

## 9 Overview and Scrutiny Committee

**Composition: 9 Councillors in political balance.**

**Members of the Committee shall not be Members of the Cabinet.**

**The Chair of the Overview and Scrutiny Committee will be appointed by Council annually, however, only non-executive members are entitled to vote for the Chair.**

**The Chair and Vice Chair shall not be Members of the largest political group on the Council.**

### Terms of Reference

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

- 9.1 To consider and call in decisions relating to the discharge of Cabinet functions before those decisions are put into effect. The Overview and Scrutiny Committee can ask the Cabinet to reconsider any such decision (or, exceptionally, refer it to Council under the Procedure Rules in **Part 3**).
- 9.2 To scrutinise decisions relating to the discharge of the Cabinet functions after they are put into effect.
- 9.3 To consider the notices of forthcoming **Key Decisions** and comment as appropriate to the decision-maker on **Key Decisions** (before they are taken by the Leader, Cabinet, Portfolio Holders or Officers).
- 9.4 To conduct reviews of policy, services and aspects of services where there is an identifiable need, by itself or through setting up a Task Group.
- 9.5 To make suggestions on the development of policies and suggest new policies where appropriate.
- 9.6 To work with or appoint representatives to work with other local authorities and organisations to carry out joint scrutiny.
- 9.7 To assist the Cabinet in the development of the Budget and Policy Framework along with the Budget and Performance Panel and, where appropriate, establishing Task Groups, or referring to the Budget and Performance Panel, topics for scrutiny.
- 9.8 To receive and consider the Cabinet's work in response to external inspection and review. The Committee may refer a particular external review or inspection to the Budget and Performance Panel or a Task Group for consideration.
- 9.9 To create Task Groups and set their Terms of Reference, in order to fulfil the Overview and Scrutiny requirements of the authority and the annual Overview and Scrutiny Work Programme.
- 9.10 To receive reports, presentations and updates in order to scrutinise the Cabinet's priorities for and its performance in the year.

- 9.11 To review and scrutinise the performance of the Cabinet, Cabinet Committees and appropriate Officers both in relation to individual decisions and over time (provided such matters are not excluded by regulations such as individual planning or licensing decisions).
- 9.12 To approve an annual Overview and Scrutiny Work Programme, including the power to request and receive the Work Programme of the Budget and Performance Panel and Task Groups it appoints so as to ensure that their time is effectively and efficiently utilised and that the potential for duplication of effort is minimised.
- 9.13 To produce a unified annual report for the whole scrutiny process, with sections provided by the Budget and Performance Panel and each of the Task Groups.
- 9.14 To allocate money from approved Overview and Scrutiny budgets for its own use, and upon request to support the Budget and Performance Panel and Task Groups in meeting their objectives and further the Overview and Scrutiny work programme and development.
- 9.15 To consider matters arising from a **Councillor Call for Action** (CCfA) under the Local Government Act 2000.
- 9.16 To undertake the functions of the Council's crime and disorder committee for the purposes of Section 19 of the Police and Justice Act, including consideration of a CCfA relating to crime and disorder matters.
- 9.17 To gain an overview of and scrutinise issues of mutual interest pertaining to the Lancaster District with Lancashire County Councillors as and when appropriate, to be effected by way of a standing item of business entitled "locality working".



## 10 Budget and Performance Panel

**Composition:** 9 Councillors in political balance.

**Members of the Committee shall not be Members of the Cabinet.**

**The Chair of Budget and Performance Panel will be appointed by Council annually however, only non-executive members are entitled to vote for the Chair.**

**The Chair and Vice Chair shall not be Members of the largest political group on the Council.**

### **Terms of Reference<sup>4</sup>**

- 10.1 To scrutinise the Council's arrangements and performance in relation to financial planning, including budget / target setting. e.g. items within the Budget Framework including reviewing the effectiveness of the:
  - 10.1.1 budget setting process;
  - 10.1.2 contents of the Medium Term Financial Strategy (MTFS);
  - 10.1.3 Capital Investment Strategy; and
  - 10.1.4 financial targets in the Corporate Plan.
- 10.2 To review the management of resources by scrutinising the Council's financial performance in year against agreed budgets or other targets. e.g.:
  - 10.2.1 capital and revenue spending against approved budgets;
  - 10.2.2 specific activities including treasury management, generation of revenue and capital income targets; and
  - 10.2.3 monitoring of financial savings/efficiency targets (including within the MTFS).
- 10.3 To monitor and review by exception reporting within the Performance Review Team (PRT) the performance of the Council's services and contractual arrangements in delivering specific strategic and operational objectives and outcomes. e.g.:
  - 10.3.1 receive Performance Review Team reports;
  - 10.3.2 monitor the delivery and effectiveness of Service Level Agreement targets;
  - 10.3.3 assess performance against key performance indicators and benchmarks; and
  - 10.3.4 assess whether services are delivering their expected outcomes.
- 10.4 To review the effectiveness of the Council's overall performance management arrangements in relation to partnership working and to scrutinise the performance of the Council's major partnerships.

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<sup>4</sup> Further suggested changes to be provided by the CFO  
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- 10.5 To scrutinise the Council's policies and procedures and other supporting arrangements for securing value for money (i.e. economy, efficiency, effectiveness) e.g.:
  - 10.5.1 value for money strategy;
  - 10.5.2 procurement practices;
  - 10.5.3 income management and collection arrangements;
  - 10.5.4 asset management practices; and
  - 10.5.5 insurance arrangements.
- 10.6 To consider risk management issues in reviewing and scrutinising performance.
- 10.7 To make recommendations as appropriate in respect of the above.

## 11 Independent Remuneration Panel

**Composition:** **A minimum of 3 Independent members appointed by the Council from time to time, ideally 4.**

**Where appropriate the Independent Remuneration Panel may meet concurrently with or form a joint Independent Remuneration Panel with a neighbouring Council or the County Council.**

### Terms of Reference

- 11.1 The role of the Independent Remuneration Panel is to consider and keep under review aspects of the Members' Allowance Scheme and, as and when appropriate, to submit reports (containing recommendations) to the Cabinet and Council, regarding:
- 11.1.1 The responsibilities or duties in respect of which the following should be available:
- (i) special responsibility allowance;
  - (ii) travelling and subsistence allowance;
  - (iii) co-optees' allowance;
- 11.1.2 The amount of such allowances and as to the amount of basic allowance;
- 11.1.3 Whether an amount in respect of the care of children and a dependants' carers' allowance should be payable to Councillors, and if so, recommendations as to the amount of such allowances;
- 11.1.4 Whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, to recommend whether payment of allowances should be backdated in accordance with the Regulations; and
- 11.1.5 Whether adjustments to the level of allowance may be determined according to an index and if so which index and how long that index should apply, subject to a maximum of four years, before its application is reviewed.

## 12 Independent Persons Panel

**Composition: 2 Independent Persons (minimum)**

**All of the Council's Independent Persons appointed pursuant to section 28(7) Localism Act 2011 shall be invited to attend and, if at the relevant time there are fewer than two such Persons who are able to attend, then the Independent Persons appointed by another neighbouring Council shall be invited to attend.**

**The Panel shall be appointed from those Independent Persons who have accepted an invitation to be considered for appointment, in accordance with the following priority order:**

- a) an Independent Person who has been appointed by the authority and who is a local government elector in the Council's area;**
- b) any other Independent Person who has been appointed by the authority;**
- c) an Independent Person who has been appointed by another authority or authorities.**

**Independent Persons must have undertaken appropriate training.**

### **Terms of Reference**

- 12.1 The Independent Persons Panel is an advisory committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purpose of advising on matters relating to the dismissal of the Officers designated as the Chief Executive, the Chief Finance Officer and the Monitoring Officer (the "Statutory Officers") in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001 as amended.
- 12.2 The Independent Persons Panel will:
  - 12.2.1 hear, consider, ask questions and comment in respect of Statutory Officer discipline or grievance that could lead to dismissal; and
  - 12.2.2 make a report and recommendation to Full Council in accordance with the Council's policies and Employment Procedure Rules.
- 12.3 The Independent Persons Panel may meet concurrently with the Investigation and Disciplinary Committee where a hearing or meeting could result in a recommendation to Full Council for the dismissal of a Statutory Officer; or may meet separately.
- 12.4 The Panel shall have access to external legal and professional advice as necessary, via the Monitoring Officer (or Deputy as appropriate).

## Part 2 – Section 6

### Joint Arrangements

The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions jointly, or advise the Council. The Council and/or the Cabinet are able to enter into various forms of joint arrangements. Such arrangements may involve the delegation of functions to another authority, an Officer of another authority or the establishment of a Joint Committee with another local authority or a number of authorities.

Where three or more Councillors are appointed to a non-executive function Joint Committee, those Councillors must be appointed in political balance. Subject to below, the Cabinet may only appoint Cabinet Members to a Joint Committee that exercises executive functions and those Members need not reflect the political composition of the local authority.

Where a Joint Committee involves mixed functions then there is no need for political balance but both Cabinet and Council must approve the arrangements.

The Cabinet may appoint Members to a Joint Committee from outside the Cabinet in the following circumstances:

- the Joint Committee has functions for only part of the area of the Council. In such cases, the appointees to the Joint Committee may include any Councillor who is a Member for a ward which is wholly or partly contained within the area; and
- the Joint Committee is discharging a function in relation to five or more local authorities; or the function which the Joint Committee is discharging is a function which is required by statute to be discharged by a Joint Committee.

In these cases the political balance requirements do not apply to such appointments.

Where arrangements provide for the discharge of functions by a Joint Committee and one or more, but not all, of the functions to be discharged by the Joint Committee are the responsibility of the Cabinet, then:

- where only one Councillor is a Member of the Joint Committee, that person may be, but need not be, a Member of the Cabinet; and
- where more than one Councillor is a Member of the Joint Committee, at least one Member of the Cabinet must be a Member of the Joint Committee.

Details of joint arrangements including any delegations to Joint Committees are set out below:

### **The Council's Head of Audit Services is shared with Wyre Borough Council**

#### **Joint Committee for Revenues and Benefits**

**Composition: 2 Cabinet Members of Lancaster City Council (to be appointed by the Leader) and two Members of Cabinet of Preston City Council, with the remaining Members of each Cabinet able to act as substitute Members.**

#### **Terms of Reference**

The Joint Committee is responsible for:

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- (a) The delivery of those delegated functions relating to Revenues and Benefits set out below that Lancaster City Council and Preston City Council have agreed to be delivered through the Joint Committee within the budget and to the agreed standards;
- (b) Ensuring that Lancaster City Council and Preston City Council remain fully informed and engaged.

## **1 Functions Delegated To The Joint Committee**

- 1.1 The following functions are delegated to the Joint Committee to be carried out on behalf of the Councils subject to the terms of the Shared Service Agreement between the Councils:
  - 1.1.1 Maintenance of databases in administering Revenues and Benefits;
  - 1.1.2 Billing, collection and recovery of Council Tax and Non-Domestic Rates;
  - 1.1.3 Administration, assessment and payment of Benefits;
  - 1.1.4 Securing the gateway to Benefits and the identification of fraud and error, including investigation and determination of sanctions (save for prosecutions);
  - 1.1.5 Recovery of arrears or repayment of Housing Benefit and Council Tax Benefit Overpayment;
  - 1.1.6 Compilations of returns to central Government relating to Revenues and Benefits (to be signed off by the Chief Finance Officer);
  - 1.1.7 Provision of administration and support services relating to Revenues and Benefits when appropriate;
  - 1.1.8 Approval of discretionary Housing Payments;
  - 1.1.9 Approval of applications for mandatory relief, discretionary relief for Non-Domestic Rates and Council Tax, including hardship and partial occupation;
  - 1.1.10 Recommendation and administration of any write-offs of bad debts within the scope of the write-off policies established by each Council;
  - 1.1.11 Preparation of benefit subsidy claims;
  - 1.1.12 Any additional functions that may be conducive to carrying out the shared service for Revenues and Benefits; and
  - 1.1.13 Responding to all requests for information in accordance with the Freedom of Information Act 2000 in respect of the functions delegated to the Joint Committee (whether such requests are addressed to the Joint Committee or any Partner Council).
- 1.2 The functions delegated to the Joint Committee shall be exercised subject to any proposed expenditure being contained in the annual Revenues and Benefits budget approved by the Councils and any proposed activities being within the Business Plan approved by the Councils provided that it complies with the relevant financial procedure rules of the Joint Committee.

## **Functions retained by each Council**

- 1.3 The following functions and matters shall be reserved to and decided by each Council from time to time; all decisions and policies on such matters shall be notified to the Joint Committee as necessary as soon as reasonably practicable after any such decision is made and the Joint Committee shall give effect to all such policies and decisions of the Councils in the exercise of the functions delegated to it:
- 1.3.1 Approving and setting of Council Tax;
  - 1.3.2 Calculation of Council Tax Base;
  - 1.3.3 Collection fund accounting;
  - 1.3.4 Approval of benefit subsidy claims;
  - 1.3.5 Determination of policy for second and empty homes;
  - 1.3.6 Determination of policy for write off of bad debts and approval of any write-offs within the scope of that policy;
  - 1.3.7 Setting the level of and the receipt of enforcement fees;
  - 1.3.8 Approval of discretionary relief policies in relation to Non-Domestic Rates and Council Tax;
  - 1.3.9 Agreement of rating assessments for Council owned properties; and
  - 1.3.10 Authorisation and prosecution of benefit fraud cases.

### **Tenants' Forum<sup>5</sup>**

**Composition:** Councillors sit as non-voting members of the Forum. Councillor representation comprises the Cabinet Member with responsibility for Housing plus 5 other Councillors invited by the Cabinet Member.

### **Terms of Reference:**

- To promote the interests of all council tenants of the district, and to assist in maintaining good relations between all members of the community.
- To promote council tenants' rights and the maintenance and improvement of housing conditions, amenities, and the environment.
- To ensure that all tenants have effective opportunities to participate in the management of their homes and neighbourhoods.
- To promote change in response to tenants' needs and aspirations.
- To act as a consultative group on all issues concerning tenants at district wide level.

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<sup>5</sup> Cabinet Minute No 8, 3rd June 2008 Refers

- To work towards the elimination of all forms of discrimination within the community by encouraging all tenants to participate in the management of their homes and neighbourhoods.

**Frequency:** Meeting a minimum of four times a year



## **Part 2, Section 7**

### **Scheme of Delegation to Officers**

It is acknowledged that the role of Officers is to take operational decisions in the manner that they consider is most appropriate given their managerial and professional expertise, and that no specific delegations are required in order for Officers to carry out the administration of the services for which they are responsible.

The purpose of this Scheme of Delegation is rather to provide clarity for the undertaking of activities that for governance reasons require formal authorisation.

Formal delegations have been approved by the relevant Member body with responsibility for the particular function, and this may be Council, a Regulatory or other Committee of Council, or, in the case of executive functions, the Leader or Cabinet.

All the delegations within this Scheme are to be undertaken within:

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

This Scheme of Delegation should be read in conjunction with the Council's Financial Regulations, including the Contract Procedure Rules, and the Treasury Management Framework.

Any reference to any Act of Parliament includes references to Regulations and other subordinate legislation made thereunder and to any EU legislation on which the UK legislation is based. References to any Act, Regulation, Order or Byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.

Subject to any express instruction to the contrary from the delegating body, any power to approve also includes power to refuse, power to impose appropriate conditions and power to amend decisions.

Generally, any power delegated to a Director may be exercised by the Chief Executive, and any power delegated to any other Officer may be exercisable by the Officer's Director or the Chief Executive. However, it should be noted that this is subject to any specific statutory restrictions. For example, under health and safety legislation, some powers may only be exercised by qualified "inspectors".

Any delegation to the Chief Executive may in his/her absence be exercised by a Director. Formal urgent decisions will be taken in consultation with the appropriate elected Councillor(s) in accordance with the Constitution. It is anticipated that the delegated authority would be exercised (taking account of any comments from the Monitoring Officer and the Chief Finance Officer), by the most appropriate Director given the subject matter for decision, or, in the absence of that Director or where the decision is general in nature, by the Director/Deputy Director on Senior Emergency Officer duty at the time.

This scheme of delegation covers both executive and non-executive functions and is subject to the 'cascade' principle and, unless excluded by statute, bestows the power for the Chief Executive and Directors to further delegate in writing all or any of these functions to other Officers (described by post title) either fully or in part and subject to such limitations as considered reasonable by the delegating Officer. Any such delegation must be evidenced in writing, dated and signed by the Officer delegating the authority, with a copy supplied to the Democratic Services Manager. The Officer delegating the function remains responsible for ensuring that delegated decisions are properly taken by sufficiently senior and experienced Officers and for the decisions taken.

The cascade principle under which this scheme operates means that any Officer given powers under this scheme can further delegate those powers to other Officers either:-

- through a Local Scheme of Delegation (which sets out all the standing delegations given to specific officers in defined areas of the Council's service areas). This is a full list of the Local Schemes of Delegation and you can look at any of the schemes in detail; or
- through a Specific Delegation in relation to an individual decision which must be evidenced in writing using the agreed standard form, dated and signed by the Officer delegating the power with a copy supplied to the Democratic Services Manager.

A Specific Delegation does not need to be given where an Officer is given delegated powers to action a particular decision by Council, Cabinet or a Committee or Sub Committee.

All Local Schemes of Delegation (and any changes to them) must be agreed by the Monitoring Officer. The Monitoring Officer shall be authorised to amend the Scheme of Delegation to reflect reorganisations, changes in job titles and vacancies (where such changes result in redistributing existing delegations), to reflect legislative changes and to effect member decisions. Any post specifically referred to in the Scheme of Delegation shall be deemed to include any successor post, and shall include any Officer acting up or seconded.

Where a function has been delegated to an Officer (including where sub-delegated through the Cascade principle), the person or body making the delegation may at any time exercise the function concurrently or take back responsibility for the function and may therefore exercise the function (make the decision) despite the delegation.

Equally an Officer may consider a decision to be of such importance or sensitivity that their delegated authority should not be exercised in any particular case and may refer the matter back to the delegating body for decision.

Where an Officer is authorised or designated by virtue of this Scheme of Delegation as an authorised Officer for the purposes of any legislation, that authorisation (unless it specifically states to the contrary) shall be deemed to authorise that Officer to undertake all the powers and duties of an authorised Officer as are specified in that legislation. These may include (but are not restricted to) the power to enter on land, undertake inspections, serve notices (including the issue of fixed penalty notices), take samples and remove goods.

Where a power or duty is delegated to an Officer, either directly under the Scheme of Delegation or through designation as an authorised Officer, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the Officer in question has the power to determine whether or not those circumstances exist or whether those conditions have been fulfilled in the name of and with the authority of the Council.

Functions, matters, powers, authorisations, delegations, duties and responsibilities within this Scheme shall be construed in a broad and inclusive fashion, and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything so specified.

Where a power or duty delegated under this Scheme includes at source a power to take enforcement action, and/or to recover costs, fees or charges, the delegation shall include the power to take all necessary action to recover such fees costs or charges by way of civil debt or otherwise.

An officer, in exercising delegated powers may consult the relevant Portfolio Holder or Committee Chair if he/she considers it appropriate to do so.

## **DELEGATIONS TO THE CHIEF EXECUTIVE**

## **Matters of Urgency**

To authorise any action reasonably necessary to protect the health, safety or welfare of individuals or the safety of property;

Where it is necessary for any function to be discharged and it is impracticable or impossible by reason of urgency for the matter to be considered by the Cabinet (or by the relevant portfolio holder), to take such action as s/he considers appropriate, in consultation, so far as practicable with the Leader and relevant portfolio holder(s); and where there is no Leader and Cabinet all executive functions shall vest in the Chief Executive who shall be able to exercise all executive functions or authorise Officers to exercise such functions.

Where it is necessary for any function of the Council or one of its Committees to be discharged and it is impracticable or impossible by reason of urgency for the matter to be considered by the Council or such Committee, to take such action as s/he considers appropriate, in consultation, so far as practicable with the Mayor and Group Leaders in respect of a Council function or the relevant Committee Chair in respect of a matter within the terms of reference of a Council Committee.

Where action is taken under the above, the Chief Executive shall submit a report to the next Cabinet Council or Committee meeting recording the urgent circumstances which made the action necessary and detailing the action taken.

## **Other Functions**

To make applications to the Home Secretary for consent to make orders under the Public Order Act 1986 in response to an application from the Chief Constable, and to make the appropriate Order following the receipt of the Home Secretary's consent.

To determine matters arising from the Commission for Local Administration in England (the Local Government Ombudsman) in whatever manner is appropriate, including the making of local settlements.

To seek planning permission for the Council's own development or development on Council-owned land.

To grant authorisations for the purposes of Sections 28 and 29 of the Regulation of Investigatory Powers Act 2000 (subject to the requirement for each authorisation to be approved by the Magistrates' Court).

## **Delegations from the Personnel Committee**

In respect of all posts except JNC Chief Officer posts to establish new posts and approve minor structural reorganisations, and to assimilate members of staff on fixed term or temporary contracts or in casual work situations into the permanent establishment.

To determine the terms and conditions of service of Council employees within the policy set by the Personnel Committee. To determine applications for regrading.

To determine applications made by JNC Chief Officers in accordance with the provisions of the Council's Family Leave Scheme and Flexible Working Hours Scheme.

To apply the Council's Redeployment Policy including declaration of a redundancy situation and redeployment of staff.

To approve the payment of acting up and honorarium payments and severance payments, within Council policy, up to £100,000.

To approve extensions to full or half sick pay.

To approve release of preserved pension benefits in accordance with relevant pension legislation, including Certificates of Material Change.

To determine requests for late transfers into the Local Government Pension Scheme.

To suspend and to determine disciplinary, capability and grievance matters in relation to employees except appeals against dismissal by JNC Chief Officers.

In accordance with the Model Disciplinary Procedure contained in the JNC Handbook for Chief Executives, Investigation and Disciplinary Committee meetings shall be convened by the Chief Executive who will filter out and deal with allegations which are clearly unfounded, trivial or can best be dealt with under some other procedure relating to the Monitoring Officer (in consultation with the Chair of Personnel Committee).

### **General Delegations from Council, Committees and Cabinet**

To sign statements of truth in connection with legal proceedings on behalf of the Council.

To serve notices under Section 16 of the Local Government Act (Miscellaneous Provisions) 1976.

With regard to finance and contractual matters, to exercise any relevant authority set out in the Financial Regulations and Contract Procedure Rules for Works, Goods and Services. Designation as a Responsible Spending Officer or Contract Manager will be deemed to be designation in writing by a Director for this purpose.

In accordance with relevant legislation and any charging policy set by Council, Committees or Cabinet, to set fees and charges for services and activities.

To take all necessary actions (including the preparation of any documentation, letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of Cabinet, Council or any other member body.

In consultation with the Director for Economic Growth and Regeneration to issue, serve and withdraw any Notices or take any other enforcement or other action.

To attest the affixing of the Common Seal to documents.

To determine matters arising from the Commission for Local Administration in England (the Local Government Ombudsman) in whatever manner is appropriate, including the making of local settlements.

To seek planning permission for the Council's own development or development on Council-owned land.

To grant authorisations for the purposes of Sections 28 and 29 of the Regulation of Investigatory Powers Act 2000 (subject to the requirement for each authorisation to be approved by the Magistrates' Court).

To institute, defend, settle or compromise any claim or participate in any legal proceedings in any case where such action is necessary to give effect to a decision of the Council, Cabinet or Committee or in any case where he/she considers that such action is necessary to protect the Council's interests.

To do all such things as are necessary in relation to all routine matters of day to day administration and management of the Council.

### **DELEGATIONS TO THE DIRECTOR FOR COMMUNITIES AND THE ENVIRONMENT**

Authorised to exercise the General Delegations from Council, Committees and Cabinet set out above in relation to the Chief Executive.

To administer residents' parking schemes and add properties to the Register of Excluded Properties established by Cabinet in December 2005 in respect of residents' parking schemes.

To authorise the making of car park Orders and the closure of Council owned public land and car parks where required to do so for operational or health and safety purposes.

To designate authorised Officers for the purposes of the Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act 2005 and the Refuse Disposal (Amenity) Act 1978, who may then act on behalf of the Council under the relevant legislation in accordance with their designation as authorised Officer

To approve the terms and conditions of market lettings.

To approve requests for the lighting of the Ashton Memorial in recognition of national or international charity campaigns.

To serve notices and to act on behalf of the Council under the any applicable Environmental legislation (and any subordinate legislation, regulations or orders made under the primary acts), and to designate authorised Officers who may then act on behalf of the Council (whether under primary legislation, any subordinate legislation, regulations or orders made under the primary acts) in accordance with their designation as authorised Officer.

To waive the repayment of right to buy discount under Section 185 of the Housing Act 2004.

Under the Anti-Social Behaviour, Crime and Policing Act 2014:

- (a) to be an authorised person for the purposes of section 53, with authority to issue a Community Protection Notice (Section 43), and/or a Fixed Penalty Notice for breach of a Community Protection Notice (Section 48) and to authorise other Officers to act;
- (b) to be authorised to issue notices under Sections 47 and 49 in respect of Community Protection Notice works in default and to authorise such work in default to be carried out;
- (c) to be an authorised person for the purposes of Sections 63 and Section 68 (enforcement of Public Spaces Protection Orders); and
- (d) to be authorised to issue a Closure Notice for a period of up to 24 hours.

For the avoidance of doubt the Director for Communities and the Environment can designate persons who have entered into a contract with the Council for the provision of litter services as authorised Officers under Section 88(10) of the Environmental Protection Act 1990, subject to satisfactory safeguards being set out in the contract to ensure notices are issued in accordance with the law and the Council is covered by a suitable indemnity.

To grant, renew and vary site licences and collectors' licences under the Scrap Metal Dealers Act 2013, and to enter and inspect premises licensed under the Act.

To appoint Proper Officers for the purposes of the Public Health (Control of Disease) Act 1984, the Public Health (Infectious Diseases) Regulations 1988 and under the National Assistance Act 1948, Regulations 2 and 3 of the Health Protection (Notification) Regulations 2010, Sections 84 and 85 of the Public Health Act 1936, and Section 37 of the Public Health Act 1961.

To serve any statutory notice, counter-notice or document in respect of a dwelling house let by the Council and which is to be served in connection with the exercise of the functions of the local housing authority.

To serve notice and commence legal action to seek an order of possession in respect of a dwelling house let by the Council under various different tenancy arrangements or to authorise others to take such decisions and to review any decision to seek an order for possession of a dwelling

To award discretionary points and exercise any other discretion that may be appropriate to allocate council housing stock, and to undertake any review under the Housing Allocation Policy.

To nominate tenants to Housing Associations.

To serve statutory notices, directions, orders and other documents, to exercise statutory powers of entry and to undertake inspections and take enforcement action in connection with unfit, defective or otherwise substandard dwellings, or overcrowding or to address otherwise unsatisfactory conditions.

To investigate and take enforcement action in respect of unlawful eviction or tenant harassment or any offence under Housing legislation.

To determine applications for the licensing of houses in multiple occupation under the Housing Act 2004 including the granting, refusal and variation of licences and the issuing of temporary exemptions in appropriate cases as defined in the Act.

To determine applications in respect of grants in respect of dwellings, including disabled facilities grants and to waive or relax the conditions and/or requirements of approved grants.

To take action to secure the restoration or continuation of the supply of water, gas or electricity to tenanted property.

To exercise the statutory functions of the Council with regard to homelessness, including the undertaking of reviews of decisions. To administer and operate any loan/grant/other schemes intended to prevent homelessness.

To determine applications in respect of chimney heights under the Clean Air legislation.

Under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 to set and impose a penalty charge (to a maximum of £5000); to undertake the service and signing of notices; to consider and determine representations and objections; to recover the monetary penalty through a certificate signed by the Director of Corporate Services.

Under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 to act as Inspectors; to undertake the service and signing of notices; to set and impose a penalty charge (to a maximum of £5000); to authorise remedial work; to consider and determine representations and objections; to recover a monetary penalty through a certificate signed by the Director of Corporate Services.

To serve notices and to act on behalf of the Council under the Health Act 2006 and to designate authorised Officers who may then act on behalf of the Council under the legislation in accordance with their designation.

### **Non-Executive functions delegated by Licensing Committee**

To suspend or revoke an operator's licence under Section 62 of the Local Government (Miscellaneous Provisions) Act 1976.

To suspend or revoke a hackney carriage or private hire vehicle licence under Section 60 or Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 and to suspend or revoke a driver's licence under Section 61, including authority to suspend a licence with immediate effect in the interests of public safety.

To grant and issue any licence, registration or other permission under any legislation within the terms of reference of the Licensing Committee, unless there are any adverse representations or other reasons why the Officer considers it appropriate to refer the matter to the Committee. This does not include authority to refuse a licence, save that the Director of Communities and the Environment and the Licensing Manager are authorised to refuse new applications for hackney carriage or private hire driver licences, where satisfied that the applicant is not a fit and proper person to hold a licence.

To approve any matters within the conditions of licences, registrations or other permissions under any legislation within the terms of reference of the Licensing Committee, which require the approval or consent of the Council.

To designate authorised Officers, who may then act on behalf of the Council, serve notices apply for warrants and take action under the Act in accordance with their designation as authorised Officer under the:

- Local Government (Miscellaneous Provisions) Act 1976;
- Local Government (Miscellaneous Provisions) Act 1982;
- Health and Safety at Work (etc.) Act 1974;
- Various Food Acts
- Pet Animals Act 1951
- Caravan Sites and Control of Development Act 1960
- Animal Boarding Establishments Act 1963
- Dangerous Wild Animals Act 1970 and 1991
- Breeding of Dogs Act 1973 and 1991
- Riding establishments Acts 1964 and 1970
- Zoo Licensing Act 1981
- County of Lancashire Act 1984
- Noise and Statutory Nuisance Act 1993
- Housing and Planning Act 2016.

To allocate permits for street collections unless there are more applications than permits available.

To issue licences, registrations, permissions, orders, notices and consents and take enforcement action in relation to any regulatory function of the Licensing Committee, unless there are any adverse representations or other reasons why the Officer considers it appropriate to refer the matter to the Committee.

To advertise, grant, issue and enforce street trading licences or consents under the Local Government (Miscellaneous Provisions) Act 1982, and to set the appropriate fee or charge.

### **Non-Executive functions delegated by Licensing Sub-Committee**

### Licensing Act 2003

To determine applications for Personal Licences, including with relevant Unspent Convictions provided no Police representation has been made.

To determine applications for Premises Licences/Club Premises Certificates provided no representation has been made.

To determine applications for Provisional Statements provided no representation has been made.

To determine applications to vary Premises Licences/Club Premises Certificates provided no representation has been made.

To determine applications to vary Designated Premises Supervisor licenses.

To determine any request to be removed as a Designated Premises Supervisor.

To determine applications for transfer of Premises Licences provided no police objection has been received.

To determine applications for interim authorities provided no police objection has been received.

To determine whether any representation is irrelevant, trivial, frivolous or vexatious etc.

To agree the appropriate scale of plans required to be submitted by an applicant.

To dispense with a hearing in accordance with Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005.

To extend time limits in accordance with Regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005.

To identify points on which clarification may be required at a hearing, in accordance with Regulation 7 (1) (d) of the Licensing Act 2003 (Hearings) Regulations 2005.

To acknowledge receipt of a Temporary Event Notice under Section 102 of the Licensing Act 2003 and, where appropriate, to serve counter-notice under Section 107 of the Act.

To determine applications for minor variations to Premises Licences/Club Premises Certificates.

In consultation with the Chair of the Licensing Committee or in his/her absence the Vice Chair, authority to authorise applications for hypnotism subject to the standard conditions approved by the Committee.

### Gambling Act 2005

To determine applications for permits for 3 or 4 gaming machines in premises licensed under the Licensing Act 2003.

To determine applications for premises licences under the Gambling Act 2005 where no representations have been received or representations have been withdrawn.

To determine applications for a variation to a licence under the Gambling Act 2005 where no representations have been received or representations have been withdrawn.



To determine applications for a transfer of a licence under the Gambling Act 2005 where no representations have been received from the Gambling Commission.

To determine applications for a provisional statement under the Gambling Act 2005 where no representations have been received or representations have been withdrawn.

To determine applications for club gaming/club machine permits under the Gambling Act 2005 where no objections have been made or objections have been withdrawn.

To determine applications for other permits under the Gambling Act 2005 where no representations have been made.

To cancel licensed premises gaming machine permits.

To grant a temporary use notice under the Gambling Act 2005 where no representations have been made.

In consultation with the Chair of the Licensing Committee to determine film classification restrictions where there has been no classification by the British Board of Film Classification; save that, where the Director of Communities and the Environment considers it appropriate in view of the nature of the particular film, the matter shall be referred to the Committee.

To act on behalf of the Licensing Authority as Responsible Authority when required under the Licensing Act 2003.

To suspend licences and club premises certificates for non-payment of annual fees in accordance with the Licensing Act 2003.

To designate authorised persons as defined in Section 13(2)(a) of the Licensing Act 2003.

To designate authorised persons as defined in Section 304(2) of the Gambling Act 2005.

#### **DELEGATIONS TO ANY OFFICERS DESIGNATED BY THE DIRECTOR OF COMMUNITIES AND ENVIRONMENT IN WRITING**

Under the cascade principle (above) the Director of Communities and Environment may authorise other suitably qualified and experienced Officers to undertake any of the functions set out above.

#### **DELEGATIONS TO THE DIRECTOR OF CORPORATE SERVICES**

Authorised to exercise the General Delegations from Council, Committees and Cabinet set out above in relation to the Chief Executive.

To approve the terms and conditions for the disposal or acquisition of freehold land, and the granting or taking of a lease of property, where the consideration or premium or annual rent is at market value and does not exceed £150,000 subject to Ward Councillors being consulted about the principle of the sale/acquisition or, if the property has not previously been leased, the principle of leasing.

To approve the terms and conditions of any other lettings, sub-lettings, concessions or licences to occupy any Council land or premises, where the rent / fee is at market value.

To grant peppercorn leases of land for potential new allotment sites (provided that such land would not be capable of achieving a market rent exceeding £6000 pa for alternative use) subject to the approval of the Director of the relevant managing Service.

To approve the terms of rent or service charge reviews, licences to assign, deeds of variation and surrenders.

To appropriate land and properties between purposes.

To terminate or forfeit leases, sub-leases and licences.

To approve the payment of compensation due under the Landlord and Tenant Act 1954.

To grant and accept wayleaves and easements and to approve the consideration payable to or by the Council.

To approve the disposal of Council houses and flats and subsequent assignments under the statutory Right to Buy provisions.

To institute, defend, settle or compromise or participate in any legal proceedings in any case where such action is necessary to give effect to a decision of the Council or in any case where he/she considers that such action is necessary to protect the Council's interests.

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

To arrange insurance cover for the Council, including the taking out and renewal of policies.

To undertake borrowing and investment decisions and related/supporting operational activity in accordance with the Council's approved Treasury Management Framework.

To sign any documentation on behalf of the Council in accordance with any approved role as "accountable body".

To update the Council's financial systems and records as necessary to bring into effect a decision of the Council or Cabinet.

To exercise the Council's statutory functions and responsibilities in respect of Council Tax, National Non-Domestic Rates, and Housing Benefit and Council Tax Support and to support the Joint Committee with Preston Council.

To authorise Officers to represent the Council in the Magistrates' Court in recovery and enforcement proceedings for Council Tax and National Non-Domestic Rates (NNDR).

To grant relevant reliefs, discounts and exemptions and support awards associated with Council Tax, National Non-Domestic Rates, and Housing Benefit and Council Tax Support (made available either through locally determined or national policies).

To authorise the commencement of civil proceedings for the recovery of sums owed to the Council.

To sign certificates under Regulation 53(5) of the Council Tax (Administration and Enforcement) Regulations 1992 and Regulation 21(5) of the Non-domestic Rating (Collection and Enforcement (Local Lists) Regulations 1989.

To approve the naming of streets and numbering of properties.

To authorise Officers to appear on behalf of the Council in Courts inquiries and Tribunals, as appropriate.

To certify resolutions and documents as being true copies.

To determine whether or not confidential or exempt Cabinet reports, minutes or background papers are required to continue to be treated as confidential or exempt.

To sign official certificates of search in the register of local land charges and set the fee for a local search and related inquiries in respect of land.

To approve expenditure from the Member conferences budget in consultation with the relevant Cabinet Member.

To approve duties for inclusion in the list of Approved Duties for the purposes of the Members' Allowances Scheme.

To make orders under the Town Police Clauses Act 1847 where there are no objections to the proposed closure from either the highway authority or the police.

To determine requests for review under the Freedom of Information Act 2000.

To determine listing and compensation reviews in respect of assets of community value under Part 5 Chapter 3 of the Localism Act 2011.

To be the Proper Officer as required by any legislation save where another Officer has been so designated.

To institute, defend and be responsible for the conduct of any legal proceedings in any civil or criminal court or tribunal, on behalf of the Council, and to make appropriate arrangements for such matters to be dealt with by the Council's Legal Service.

To instruct Counsel or external solicitors to advise and/or represent the Council, through the Council's Legal Service.

To settle or compromise any claim against the Council or legal proceedings to which the Council is a party, in consultation with the relevant Director.

To take all steps incidental to completing or obtaining the confirmation of any Order or other formal proceedings made by the Council.

To determine nominations for inclusion in the Council's list of assets of community value, and to determine requests from an asset owner for compensation under Part 5 of the Localism Act 2011.

In accordance with relevant legislation and any charging policy set by Council or Cabinet to set fees and charges for services and activities.

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

## **DELEGATIONS TO ANY OFFICERS DESIGNATED BY THE DIRECTOR OF CORPORATE SERVICES IN WRITING**

Under the cascade principle (above) the Director of Corporate Services may authorise other suitably qualified and experienced Officers to undertake any of the functions set out above.

## **DELEGATIONS TO THE DIRECTOR FOR ECONOMIC GROWTH AND REGENERATION**

### **Executive Functions**

To determine applications under the Building Regulations, and to serve notices and issue certificates under the Building Regulations 2000 (as amended).

To exercise the Council's powers under Sections 76, 77, 78, 79 and 81 of the Building Act 1984.

To approve Home Loss and Disturbance payments.

To be the proper Officer for the purposes of Section 93(1)(a) and to authorise Officers to sign documents in accordance with Section 93(1)(b) of the Building Act 1984.

To designate authorised Officers for the purposes of Section 95 of the Building Act 1984.

In consultation with the relevant Cabinet portfolio holder, to approve grants and other financial assistance to businesses and community enterprises, in accordance with the eligibility criteria and other terms and conditions applicable to the relevant approved grant aid schemes.

In accordance with relevant legislation and any charging policy set by Cabinet, to set fees and charges for services and activities.

In consultation with the Chief Executive, to instruct Counsel to advise and/or represent the Council.

To designate authorised Officers for the purposes of Sections 196A, 196B, 214B, 214C, 219, 324 and 325 of the Town and Country Planning Act 1990 and Sections 88 and 88A of the Planning (Listed Buildings and Conservation Areas) Act 1990, who may then act on behalf of the Council under the relevant legislation in accordance with their designation as authorised Officer.

To set fees and charges for planning applications and any other services provided under the terms of reference of the Committee.

To determine applications under the provisions of Part III and VIII of the Town and Country Planning Act 1990 and Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990, having regard to the approved Development Plan and any relevant approved statement of policy, including proposals affecting Listed Buildings or in Conservation Areas EXCEPT for the following categories of development:

- (a) Applications in the major category as defined by the DCLG which are recommended for approval and are the subject of any objections;
- (b) Applications recommended for approval which are departures from the Development Plan;
- (c) Applications made by the City Council or major applications made by the County Council;
- (d) Applications by Councillors or Council Officers and other parties where considerations of probity indicate that a Committee decision is required;

(e) Any application which the Chief Officer (Regeneration and Planning) considers should be determined by the Committee; and

(f) Any application which a Councillor asks to be referred to the Committee. This request must be made to the Case Officer within 21 days of the application appearing on the Weekly List of Applications; it must be submitted on the requisite form (which can be emailed); and the request cannot be made on a resubmitted application (an application submitted within 12 months of a refusal or withdrawal of an application with the same or similar description, unless the initial application was referred to Committee within its 21 day period before it was withdrawn).

NB: In respect of (g) - the Ward Councillor submitting the request, where that Councillor is also a Member of the Planning Regulatory Committee, that Member would be expected to register to speak at the Planning Regulatory Committee Meeting. In those circumstances, the Ward Councillor could either choose to send a Substitute Member to take their place on the Committee for the duration of the Committee Meeting; or they could alternatively choose to register to speak as a Ward Councillor on that single item, in the knowledge that (as a speaker) they couldn't participate in debate or voting on that particular item. The Ward Councillor would however, be permitted to return to the Committee benches to be able to participate in debate and vote on other items on the committee agenda.

To secure compliance with associated conditions or legal agreements in respect of any planning permission granted, to vary such conditions or agreements and to discharge any requirements of such agreements.

To respond to consultations under the provisions of sections 42 and 43 of the Planning Act 2008 with the exception of responding formally to the Infrastructure Planning Commission or its successors in title under Sections 55 and 60 with the council's view on Statements of Community Involvement and Local Impact Reports.

To decline to determine applications for planning permission pursuant to Section 70A of the Town and Country Planning Act 1990.

To determine requests for amendments to submitted or determined planning applications or other development related consents.

To advertise and consult on advertising of planning and other like applications.

In conjunction with the Chief Executive to contest appeals regarding matters within the terms of reference of the Planning Regulatory Committee.

To serve notices for the preservation/repair of Listed Buildings or buildings/structures worthy of listing under the provisions of sections 3, 48 and 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

To make and enforce Tree Preservation Orders and related provisions.

To determine applications for Certificates of Lawful Use or Lawful Development under the provisions of Section 191- 94 of the Town and Country Planning Act 1990.

To issue a screening opinion or a scoping opinion under the Provisions of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

To waive the charge for the making of Revocation and Modification Orders in appropriate cases.

To serve statutory notices in respect of any highway matter within the terms of reference of the Planning Regulatory Committee.

To make observations on development and development plans proposed by neighbouring authorities.

**DELEGATIONS TO ANY OFFICERS DESIGNATED BY THE DIRECTOR FOR ECONOMIC GROWTH AND REGENERATION IN WRITING**

Under the cascade principle (above) the Director for Economic Growth and Regeneration may authorise other suitably qualified and experienced Officers to undertake any of the functions set out above.

**DELEGATIONS TO THE CHIEF FINANCE OFFICER AND TO THE DEPUTY CHIEF FINANCE OFFICER(S)**

**Executive Functions**

To determine the Council's tax bases and Collection Fund balances in respect of local taxation, together with related matters, in accordance with the Local Government Act 1992, the Local Government Act 2003 and other associated legislation.

To sign any documentation required to be signed by the Council's Chief Finance Officer.

To determine the Council's banking arrangements.

**Non-Executive Functions**

To be responsible for the proper management of the Council's financial affairs and the accounting arrangements of the Council, including (but not limited to) the following:

- All Officer decisions on borrowing, investment or financing in accordance with the approved Treasury Policy Statement and Investment Strategy.
- The investment of the Council's funds in accordance with such policy as the Council may from time to time approve and with a view to achieving such enhanced returns as is consistent with security and liquidity.
- To adjust where necessary the authorised and operational limits agreed each year for external debt, and to effect movement between the separately agreed figures for borrowing and long-term liabilities. Any such changes to be reported to the Council at its next meeting following the change.
- Management of the Collection Fund, General and other Funds and accounts and the disbursement of monies therefrom.
- Raising of finance including leasing of vehicles, plant and equipment where the acquisition of the item concerned has all necessary approvals.
- Administration of Housing Benefits, and Council Tax Benefits and recovery including Business Rates (NNDR) and to write off sums outstanding as irrecoverable.
- The grant of rate relief to charities within principles laid down by the Council.

- To write off all types of debtor accounts up to the level stated in financial regulations.
- To make mortgage advances to applicants fulfilling conditions set by the Council.
- Approve any individual loan or loan scheme.
- Make applications for funding, receive grants and act as accountable Officer.
- Act in receivership of the property of the mentally ill.

To authorise Officers to initiate and conduct legal proceedings in the Magistrates and County Courts on behalf of the Council in connection with the council's finance and benefit functions.

**The Chief Finance Officer (Section 151), has nominated the Accountancy Services Manager and the Internal Audit Manager to be Deputy Chief Finance Officers in his/her absence.**

### **DELEGATIONS TO THE MONITORING OFFICER**

- Advise whether Cabinet decisions are within the budget and policy framework** - The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- Provide advice** – The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- Ensure lawfulness and fairness of decision making** – After consulting with the Chief Executive and Chief Finance Officer, the Monitoring Officer will report to the Cabinet in relation to an executive function or Full Council in respect of a non-executive function if s/he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- Maintain the Constitution** – The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Councillors, staff and the public and shall keep it up to date making minor amendments or implementing amendments decided by others.
- Be the Proper Officer for access to information** – The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

### **Non-Executive functions delegated by the Personnel Committee**

In accordance with the Model Disciplinary Procedure contained in the JNC Handbook for Chief Executives, Investigation and Disciplinary Committee meetings shall be convened by the Monitoring Officer who will, filter out and deal with allegations which are clearly unfounded, trivial or can best be dealt with under some other procedure relating to the Chief Executive and the Chief Finance Officer (in consultation with the Chair of Personnel Committee).

### **Non-Executive functions delegated by the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

**Conduct investigations** – To determine in accordance with the Standards Committee's arrangements under the Localism Act 2011 whether an allegation of breach of the Councillors' code of conduct should be investigated, whether there should be local resolution or no action taken.

The Monitoring Officer will conduct investigations and may appoint an investigating Officer as appropriate.

Make arrangements for a hearing as appropriate.

To authorise the granting of dispensations pursuant to section 33 Localism Act 2011.

The Monitoring Officer has nominated the Legal Services Manager and the Democratic Services Manager to act as Deputy Monitoring Officers in accordance with Section 5(7) of the Local Government and Housing Act 1989.

### **DELEGATIONS TO THE DEMOCRATIC SERVICES MANAGER**

#### **Non-Executive functions delegated by the Licensing Act Committee**

To empanel ad hoc Sub-Committees from the pool of nine Licensing Committee Members.

### **DELEGATIONS TO THE LICENSING MANAGER**

#### **Non-Executive functions delegated by Licensing Committee**

To designate authorised Officers for the purposes of the Local Government (Miscellaneous Provisions) Act 1976, who may then act on behalf of the Council under the Act in accordance with their designation as authorised Officer.

To designate authorised Officers for the purposes of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, who may then act on behalf of the Council under the Act in accordance with their designation as authorised Officer.

To allocate permits for street collections unless there are more applications than permits available.

To suspend a driver's licence under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, including authority to suspend a licence with immediate effect in the interests of public safety.

To suspend an operator's licence under Section 62 of the Local Government (Miscellaneous Provisions) Act 1976.

To suspend a hackney carriage or private hire vehicle licence under Section 60 or Section 68 of the Local Government (Miscellaneous Provisions) Act 1976.

To grant and issue any licence, registration or other permission under any legislation within the terms of reference of the Licensing Committee, unless there are any adverse representations or other reasons why the Officer considers it appropriate to refer the matter to the Committee. This does not include authority to refuse a licence, save that the Director of Communities and the Environment and the Licensing Manager are authorised to refuse new applications for hackney carriage or private hire driver licences, where satisfied that the applicant is not a fit and proper person to hold a licence.



To approve any matters within the conditions of licences, registrations or other permissions under any legislation within the terms of reference of the Licensing Committee, which require the approval or consent of the Council.

To designate authorised persons as defined in Section 13(2)(a) of the Licensing Act 2003.

To designate authorised persons as defined in Section 304(2) of the Gambling Act 2005.

To exercise any other functions that may be delegated by the Director for Communities and the Environment or the Licensing Committee from time to time.

### **DELEGATIONS TO THE SENIOR PROPERTY OFFICER**

#### **Executive Functions**

To approve the terms and conditions for the disposal or acquisition of freehold land, and the granting or taking of a lease of property, where the consideration or premium or annual rent is at market value and does not exceed £50,000 subject to Ward Councillors being satisfied with the principle of the sale/acquisition or, if the property has not previously been leased, the principle of leasing.

To approve the terms and conditions of any other lettings, sub-lettings, concessions or licences to occupy any Council land or premises, where the rent / fee is at market value.

To grant peppercorn leases of land for potential new allotment sites (provided that such land would not be capable of achieving a market rent exceeding £6,000 pa for alternative use) subject to the approval of the Director of the relevant managing Service.

To approve the terms of rent or service charge reviews, licences to assign, deeds of variation and surrenders.

To terminate or forfeit leases, sub-leases and licences.

To approve the payment of compensation due under the Landlord and Tenant Act 1954.

To grant and accept wayleaves and easements and to approve the consideration payable to or by the Council.

To approve the disposal of Council houses and flats and subsequent assignments under the statutory Right to Buy provisions.

### **DELEGATIONS TO ALL DIRECTORS AND HEADS OF SERVICES IN RESPECT OF EMPLOYEES WITHIN THEIR SERVICE FROM THE PERSONNEL COMMITTEE**

#### **Non-Executive functions delegated by**

To extend the term of any fixed term or temporary contract.

To change the designation of a post.

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.

To determine applications and approve arrangements in accordance with the provisions of the Council's Attendance Management policies and Family Leave Scheme, Parental Leave Scheme and Flexible Working Scheme.

To determine applications for car loans.

To determine ex gratia payments.

To terminate employment in accordance with Council policy, and on grounds of permanent ill health.

To determine action in sickness absence cases lasting six months or more.

To take disciplinary action in accordance with Council policy (except JNC Chief Officers) and deal with grievances, capability or other staffing issues.

To authorise attendance of staff at appropriate courses, and the granting of financial assistance in accordance with the National Scheme of Conditions of Service.

The award of a maximum of two merit increments for examination success and in other appropriate cases provided that the award is within the approved establishment grade of the post-holder.

**DELEGATIONS TO ALL LINE MANAGERS IN RESPECT OF EMPLOYEES THEY LINE MANAGE**

To approve non-contentious terminations of employment (employee resignations or standard retirements), not including ill-health retirements or early access to pension as a result of redundancy within Council policy.

To manage all employees and take action as required by and in accordance with the terms of Council employment policies and procedures.

To determine commencing salary for new appointees.

**Part 2 – Section 8**

**Proper Officer Arrangements**

**2 ARRANGEMENTS FOR PROPER OFFICER FUNCTIONS**

- 2.1 Many legislative provisions require the appointment of a "Proper Officer" to undertake formal responsibilities on behalf of the Council.
- 2.2 The Chief Executive shall be the Proper Officer of the Council for the purposes of the Local Government Act 1972, the Local Government Act 2000 and for all other statutory purposes unless
- such designation is given by the Council to any other officer or
  - the Chief Executive/Head of Paid Service, exercising the powers given to him/her by this Constitution, appoints another officer of the Council to be the Proper Officer for a specific service area or function.
- 2.3 The Proper Officer shall maintain a [Proper Officer Register](#) which shall record all Proper Officer appointments.

<b>Function</b>	<b>Legislative Provision</b>	<b>Proper Officer</b>	<b>Deputy</b>
Reference in legislation to the "Clerk"	<b>Any legislation before October 1972</b>	Director of Corporate Services	
Appointment as Parish Trustee with Chair of Parish as body corporate for a Parish Meeting; Officer responsible for convening newly created Parish Councils	<b>Local Government Act 1972</b> Section 13(3)		
Witness and receipt of declaration of acceptance of office	<b>Local Government Act 1972</b> Section 83		
Receipt of notice of resignation by councillor	<b>Local Government Act 1972</b> Section 84		
Declare any vacancy in office	<b>Local Government Act 1972</b> Section 86		
Convening a meeting of Council to fill casual vacancy in office of Chair	<b>Local Government Act 1972</b> Section 88(2)		
Receipt of notice of casual vacancy from two local government electors (Also for Parish and Community Councils)	<b>Local Government Act 1972</b> Section 89(1)(b) <b>Local Elections (Parishes and Communities) (England and Wales) Rules 2006/3305</b>		
Signature of summons to council meetings	<b>Local Government Act 1972</b> Section 99 & Schedule 12 Para.4(1A)(b)		
Exclusion of reports, etc. from inspection	<b>Local Government Act 1972</b> Section 100B Schedule 12A		

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Written Summary where minutes would disclose exempt information	<b>Local Government Act 1972</b> Section 100C		
Compilation of list of background papers	<b>Local Government Act 1972</b> Section 100D		
Exclusion from production to Councillors of documents disclosing exempt information	<b>Local Government Act 1972</b> Section 100F		
Receipt of money due from Officers	<b>Local Government Act 1972</b> Section 115(2)		
Declarations and certificates with regard to securities	<b>Local Government Act 1972</b> Section 146(1)(a)		
The Officer having responsibility for the proper administration of the financial affairs of the Council.	<b>Local Government Act 1972</b> Section 151 Also <b>Local Government Finance Act 1988</b> sections 112-116 and any reference in legislation before October 1972 to the "Treasurer" of a local authority	Chief Finance Officer	Deputy Chief Finance Officer
Functions with respect to ordnance survey	<b>Local Government Act 1972</b> Section 191		
Charity functions	<b>Local Government Act 1972</b> Section 210		
Authorise Officers to appear in legal proceedings	<b>Local Government Act 1972</b> Section 223 (Also Section 60 County Courts Act 1984)		
Deposit of documents pursuant to the Standing Orders of either Houses of Parliament or to any enactments/instruments and any action as may be directed	<b>Local Government Act 1972</b> Section 225(1)		
Certification of photographic copies of documents	<b>Local Government Act 1972</b> Section 229(5)		
Authentication of documents	<b>Local Government Act 1972</b> Section 234(1)		
Sending confirmed byelaws to the proper Officer of every Parish and Community Council to which they apply	<b>Local Government Act 1972</b> Section 236		
Certification of byelaws	<b>Local Government Act 1972</b> Section 238		
Keeping of roll of Freemen	<b>Local Government Act 1972</b> Section 248		
Officer to whom Councillors shall give notice of address desiring Council summonses to be sent where not place of residence	<b>Local Government Act 1972</b> Schedule 12 Para.4(3)		

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<p>Certification of resolutions under paragraph 25 applying or dis-applying provisions under the Public Health Acts 1875 onwards</p>	<p><b>Local Government Act 1972</b> Schedule 14 Para.25(7)</p>		
<p>Authentication of documents and issue of notices</p>	<p>Various including:            (a) Statutory notices under the <b>Public Health Acts 1936 and 1961, the Control of Pollution Act 1974, the Housing Acts 1957 and 1988 and the Local Government Act 1989</b> (other than for Council Houses), the <b>Local Government Miscellaneous Provisions) Act 1976</b> (except as specified in the next paragraph), the <b>Prevention of Damage by Pests Act 1948, the Food Safety Act 1990 and the Environmental Protection Act 1990</b> (as it relates to statutory nuisances)             (b) Notices under the Building Regulations and the <b>Building Act 1984</b> and under the <b>Local Government (Miscellaneous Provisions) Act 1976</b> with regard to dangerous trees and excavations             (c) any other matter</p>		
<p>Receipt on deposit of lists of buildings of special architectural or historical interest and Building Preservation Notices</p>	<p><b>Town and Country Planning Act 1971</b> Section s 54 &amp; 58</p>		
<p>Exercise of registration functions under various legislative provisions relating to births, deaths and marriages including appointment of superintendent registrars and local schemes and other ceremonies including citizenship ceremonies</p>	<p><b>Registration Service Act 1953</b> including Section s 9, 13 and 20 Marriage Act 1949, Civil Partnership Act 2004</p>		

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Officer having responsibility for the storage and charge of cemetery records	<b>Local Authorities' Cemeteries Order 1977</b> Article 12		
Officer having responsibility for the signature of grants under Paragraph 1 of Part II of Schedule 2 of that Order and the granting of permission for the various matters referred to in Paragraph 1 of Part I of that Schedule	<b>Local Authorities' Cemeteries Order 1977</b> Paragraph 1 of Parts I & II of Schedule 2		
The Registration Officer for any constituency of part of a constituency coterminous or situated in the Borough.	<b>Representation of the People Act 1983</b> Section 8 and 52		
The Returning Officer for elections of Councillors of the District and for elections of Councillors of Parishes within the District and to receive declarations of Election expenses	<b>Local Government Act 1972</b> Section 35(1)  <b>Local Government Act 1972</b> Section 82		
Receipt from Returning Officer of: the names of persons elected to the council; and election documents. Retention of election documents and making them available for public inspection	<b>Local Elections (Principal Areas) (England and Wales) Rules 2006/3304</b>		
Publication of reports of Local Commissioners	<b>Local Government Act 1974</b> Part 3 Section 30		
(a) Various purposes with regard to drainage, water supply, sanitary accommodation. (b) Purposes relating to building control other than those comprised in (a) above (c) authorise action in relation to dangerous structures under Section 78	<b>Building Act 1984</b>		
To determine applications for exemption from the list of politically restricted posts  Maintain a list of politically restricted posts	<b>Local Government and Housing Act 1989</b> Section 3A  Section 2	Chief Executive	Monitoring Officer
Receipt of Notice re changes to Political Groups	<b>Local Government and Housing Act 1989</b> Sections 15,16 & 17		

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Receipt of Notice of Cessation of Membership of Political Groups To accept wishes of Political Groups in respect of proportionality To notify Political Groups of allocations	<b>Local Government Political Groups) Regulations 1990</b> Paras 9, 10, 13 & 14		
Discharging the functions for dealing with stray dogs	<b>Environmental Protection Act 1990</b> Sections 149 - 151		
Service of notices requiring details of any interests in land.	<b>Local Government (Miscellaneous Provisions) Act 1976</b> Section s 16		
Certification of copies of resolutions, minutes and other documents	<b>Local Government (Miscellaneous Provisions) Act 1976</b> Section 41		
Duty of local authority to supply forms to doctors for purposes of Section 48 - Removal of dead body to mortuary for burial. Section 58 - authentication of documents Section 60 - Service of notices and other documents	<b>Public Health Act 1936</b> Sections 11, 48, 58 & 60 <b>Public Health (Control of Disease) Act 1984</b>		
The local registrar within the meaning of the Land Registration Act 2002 and Local Land Charges Act 1975 who shall register any matters specified by these Acts affecting land situate within the district.	<b>Land Registration Act 2002 and Local Land Charges Act 1975</b>		
Entertainments, licensing control of sex shops and public health	<b>Local Government (Miscellaneous Provisions) Act 1982</b>		
Licensing and gambling functions	<b>Licensing Act 2003</b> <b>Gambling Act 2005</b>	Licensing Officer	Public Protection Group Manager
Non-disclosure where potential to prejudice the effective conduct of public affairs	<b>Freedom of Information Act 2000</b> Section 36	Chief Executive	Monitoring Officer
Scrutiny Officer	<b>Local Government Act 2000</b> Section 9FB		
Proper Officer Functions for petitions and referenda	<b>Local Authorities (Referendums) (Petitions) (England) Regulations 2011/2914</b>		

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29 – Establish and maintain a register of Members' and co-opted Members' interests 30 – 31 – Receipt of Members and co-opted Members' declarations of interests and changes to those interests within 28 days 32 – Sensitive Interests 33 – Dispensations from restrictions under Section 31(4)	<b>Localism Act 2011</b> Sections 29 - 33	Monitoring Officer	Deputy Monitoring Officer
Proper Officer functions in relation to referendums	<b>Local Authorities (Conduct of Referendums) (England) Regulations 2012</b>	Director of Corporate Services	
Proper Officer functions anti-social behaviour and community protection	<b>Anti-Social Behaviour Act 2003 and Anti-Social Behaviour, Crime and Policing Act 2014</b>		
Proper Officer for notification to deal with objections by Cabinet to appointments or dismissals of Chief and Deputy Chief Officers	<b>Local Authorities (Standing Orders) (England) Regulations 2001/3384</b>	Director of Corporate Services	HR Service Manager
Any other provisions for which arrangements are not made above or in the scheme of delegation to Officers (whether made before or after this list was last updated) requiring a proper Officer or authorised Officer from time to time – either to nominate a proper Officer or exercise the functions.	<b>Any</b>	Director of Corporate Services to allocate	
Data Protection Officer (under the GDPR)			
Making a report to Council where a <b>Key Decision</b> has been made without being included in the Forward Plan nor in compliance with the Cabinet Procedure Rules.			



# PART 3

## RULES OF PROCEDURE

(1)	Council Procedure Rules.....	
(2)	Cabinet Procedure Rules .....	
(3)	Overview and Scrutiny Procedure Rules.....	
(4)	Access to Information Procedure Rules.....	
(5)	Budget and Policy Framework Procedure Rules .....	
(6)	Employment Procedure Rules.....	
(7)	Financial Procedure Rules.....	
(8)	Contract Procedure Rules.....	6

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<sup>6</sup> To follow in next phase

## Part 3 Section 1

### Council Procedure Rules

#### 1 ANNUAL MEETING OF THE COUNCIL

##### 1.1 Timing and Business

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

- (a) elect a person to preside if the Mayor and Deputy Mayor of the Council are not present;
- (b) elect the Mayor of the Council;
- (c) appoint the Deputy Mayor of the Council;
- (d) approve the Minutes of the previous ordinary meeting;
- (e) receive any announcements from the Mayor and/or Chief Executive;
- (f) elect the Leader of the Council should the post be vacant;
- (g) note the Executive Arrangements and delegation of Executive and other functions
- (h) determine the committees and allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (i) receive nominations of Councillors to serve on each Committee and outside bodies; and appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet (as set out in **Part 2**, of this Constitution);
- (j) appoint a Chair for each Committee of Council;
- (k) appoint to the Council's Veterans Champion Role;
- (l) consider any business set out in the notice convening that meeting.

#### 2 ORDINARY MEETINGS

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

- (a) elect a person to preside if the Mayor and Deputy Mayor are not present;
- (b) approve the Minutes of the last meeting of the Council (whether Ordinary or Annual);
- (c) consider items of urgent business authorised by the Mayor;
- (d) receive any declarations of interest from Councillors;

- (e) receive any announcements from the Mayor or Chief Executive, or any Councillor with the permission of the Mayor;
- (f) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (g) deal with any business from the last Council meeting;
- (h) receive a report from the Leader and subsequent questions and on an annual basis from each Cabinet Member and Overview and Scrutiny Committee (to include Budget and Performance Panel);
- (i) receive reports and referred items from Cabinet, Council Committees and Overview and Scrutiny;
- (j) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (k) consider motions on notice;
- (l) receive reports from the Council's Statutory Officers or any other Officer with the permission of the Chief Executive or at the request of the Chair of Overview and Scrutiny, Budget and Performance Panel or a Committee of Council;
- (m) receive written questions on notice from Councillors and subsequent answers;
- (n) receive Cabinet minutes;
- (o) consider any other business specified in the summons to the meeting, including appointments to Committees and outside bodies.

2.1 Usually at the last Ordinary meeting preceding the Annual Meeting the Council will approve a programme of Ordinary meetings for the next municipal year.

### **3 EXTRAORDINARY MEETINGS**

#### **3.1 Calling Extraordinary Meetings**

Those listed below may request the Chief Executive to call a Council meeting in addition to Ordinary Meetings:

- (i) the Council by resolution;
- (ii) the Mayor of the Council or Deputy in the Mayor's absence;
- (iii) any statutory Officer of Council; and
- (iv) 5 Councillors if they have signed a requisition presented to the Mayor of the Council and the Mayor has refused to call a meeting or failed to call a meeting within seven days of the presentation of the requisition.

#### **3.2 Business**

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

The Chief Executive may reject a requisition on the following grounds, that it:

- is not about a matter for which the Local Authority has a responsibility or which affects the District;
- is potentially defamatory, vexatious, frivolous or offensive;
- refers to applications for or objections to planning permission or any licence, notice or order issued, served or made by the Council;
- is substantially the same as a motion which has been put to a meeting of the Council in the past six months; or
- relates to individual staffing matters or the personal information of councillors or Officers.

## **4 APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND OVERVIEW AND SCRUTINY**

### **4.1 Allocation**

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

### **4.2 Powers and Duties**

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

### **4.3 Substitution**

- (a) Substitute Members may attend meetings in that capacity only to take the place of the ordinary Member for whom they are substituting and where the ordinary Member will be absent for the whole of the meeting;
- (b) Temporary substitutes, having first undertaken the appropriate mandatory training required for the Committee, may attend without restriction on numbers as required by Groups after notifying the Director of Corporate Services in writing or by electronic mail (from a known or recognised source) at least 30 minutes before the commencement of the meeting. The use of temporary substitutes is not permitted at Overview and Scrutiny and Budget and Performance Panel meetings.

## **5 TIME AND PLACE OF MEETINGS**

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

## **6 NOTICE OF AND SUMMONS TO MEETINGS**

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

## **7 CHAIR OF THE MEETING**

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

## **8 QUORUM**

The quorum of a meeting will be one quarter of the whole number of Councillors (rounded up if necessary for the purpose of Committees, Sub-Committees and Task Groups) with a minimum quorum of three. The Cabinet is an exception, the quorum for a meeting of the Cabinet is four. If a quorum is not present 15 minutes after the published start time the meeting will be abandoned. During any meeting if the Chair counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9 DISCLOSABLE PECUNIARY INTERESTS AND OTHER INTERESTS**

9.1 Subject to 9.2 and 9.3 below, if a Councillor has a disclosable pecuniary interest as defined in paragraph 1 of Part B of the Code of Conduct or an “other” interest as defined in paragraph 12(1) of Part B of the Code of Conduct in any matter to be considered, or being considered at the meeting, then the Councillor should declare that interest to the meeting and should leave the room during the whole of the consideration of the item and until after the vote takes place.

9.2 If a dispensation has been granted to a Councillor in relation to a disclosable pecuniary interest then, subject to the terms of the dispensation, the Councillor may be relieved from the above restrictions but must declare the interest and the dispensation to the meeting.

9.3 If a Councillor has an “other” interest to which paragraph 12(1) of the Council’s Code of Conduct applies, the Councillor may attend a meeting but only for the purposes of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and provided that the Councillor leaves the room where the meeting is held immediately after making representations, answering questions or giving evidence.

## **10 DURATION OF MEETING**

### **10.1 Interruption of the Meeting**

The meeting shall adjourn after periods of 2 and 4 hours for breaks of 10 and 30 minutes respectively, save that the Chair, at his/her discretion, may waive the adjournment if it is likely that the business can be finished shortly.

## **11 QUESTIONS BY THE PUBLIC**

**11.1 General**

Members of the public may ask questions of Members of the Cabinet or the Chair of a Committee at ordinary meetings of the Council.

**11.2 Order of Questions**

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

**11.3 Notice of Questions**

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

**11.4 Number of Questions**

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

**11.5 Scope of Questions**

The Chief Executive may reject a question if it:

- (a) is not about a matter for which the Local Authority has a responsibility or which affects the District;
- (b) is potentially defamatory, vexatious, frivolous or offensive;
- (c) refers to applications for or objections to planning permission or any licence, notice or order issued, served or made by the Council;
- (d) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (e) relates to individual staffing matters or the personal information of councillors or Officers; or
- (f) requires the disclosure of confidential or exempt information.

Notice will be given of the reason for rejecting a question.

**11.6 Record of Questions**

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

**11.7 Asking the Question at the Meeting**

The Chair will invite the questioner to put the question to the Councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the

questioner's behalf, indicate that a written reply will be given back or decide, in the absence of the questioner, that the question will not be dealt with. The asking of the question must take no longer than 2 minutes.

**11.8 Supplementary Question**

A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his or her question. A supplementary question must arise directly out of the original question or the reply and will be restricted to two minutes duration. The Chair may reject a supplementary question on any of the grounds in Rule 11.5 above.

**11.9 Response**

Responses to questions shall be limited to a maximum of 3 minutes.

**11.10 Written Answers**

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

**11.11 Reference of Question to the Cabinet or a Committee**

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

**11.12 Duration of Public Question Time**

Public question time should not exceed 30 minutes in duration and will be conducted in accordance with the procedures set out in 11.1 to 11.11 above.

**12 QUESTIONS BY COUNCILLORS**

**12.1 On Reports and Minutes of the Cabinet or Committees**

(a) A Councillor may ask a Member of the Cabinet or the Chair of a Committee or Overview and Scrutiny meeting any question without notice upon an item of the report or minutes of the Cabinet or Committee when that item is being received or under consideration by the Council. Questions are limited to two minutes duration, with the following exceptions:

- Only Councillors who are not Cabinet Members, shall be allowed to ask Cabinet Members questions on the Leader's Report and Cabinet minutes, to enable Council to hold the Executive to account.
- Cabinet Members may only question the Leader on any matters contained within the Leader's Report which have not previously been considered at Cabinet.
- Questions must take no longer than 2 minutes.

(b) The Mayor shall have discretion to ensure that the questions asked under Rule 12.1 (a) are representative of the views of Councillors, and where, in the Mayor's belief,

the questions that have already been put shall have represented the views of the Councillors, the Mayor shall intervene to limit further questions in order not to impede proper attention to further business.

## **12.2 Questions on Notice at Council**

Subject to Rule 12.4, a Councillor may ask:

- the Chair;
- a Member of the Cabinet;
- the Chair of any Committee or Overview and Scrutiny meeting or the Budget and Performance Panel

a question on any matter in relation to which the Council has powers or duties or which affects the District. Asking the question must take no longer than two minutes and questions shall be limited to three questions per Councillor.

## **12.3 Question on Notice at Committees and Overview and Scrutiny**

Subject to Rule 12.4, a Member of a Committee may ask the Chair of the Committee a question on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of that Committee.

## **12.4 Notice of Questions**

A Councillor may only ask a question under Rule 12.2 or 12.3 if:

- (a) they have given at least three days' notice in writing or by electronic mail (from a known or recognised source) of the question to the Chief Executive; or
- (b) the question relates to urgent matters, they have the consent of the Chair to whom the question is to be put and the content of the question is given in writing or by electronic mail (from a known or recognised source) to the Chief Executive by 12 noon on the day of the meeting or one hour before the commencement of the meeting, whichever is the earlier; and
- (c) The Chief Executive does not reject the question on the following grounds, that it:
  - is not about a matter for which the Local Authority has a responsibility or which affects the District;
  - is potentially defamatory, vexatious, frivolous or offensive;
  - refers to applications for or objections to planning permission or any licence, notice or order issued, served or made by the Council;
  - is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
  - relates to individual staffing matters or the personal information of Councillors or Officers.

## **12.5 Right of Appeal to the Mayor**



A Councillor who has given notice of a question to Council as required under Rule 12.4 and whose question is rejected by the Chief Executive shall have the right of appeal to the Mayor. The Mayor will then make the decision on whether the question may be asked at the meeting.

## 12.6 Response

An answer may take the form of:

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

## 12.7 Supplementary Question

A Councillor asking a question under Rule 12.1, 12.2 or 12.3 may only ask one further supplementary question without notice of the Councillor to whom the first question was asked. The supplementary question must arise directly from the original question or the reply and will be restricted to two minutes duration.

## 13 PUBLIC SPEAKING

13.1 At a meeting of the Council a person who lives, works or studies in the area of the Authority may address Council on any item on the agenda for the meeting, or on any matter in relation to which the Council has functions, or which affects the area of the Council or part of it, or the inhabitants of that area, or some of them.

13.2 The provision outlined in 13.1 does not extend to applications for or objectors to:-

- planning permission
- any licence, notice, permission or order issued, served, granted or made by the Council

(see the Council's arrangements for public participation in Planning Regulatory Committee and Licensing Committee meetings as outlined in the [leaflet](#) on public speaking available from Democratic Services [democracy@lancaster.gov.uk](mailto:democracy@lancaster.gov.uk));.

13.3 An address may only be presented at Council if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than midday 3 days before the day of the meeting and the notice includes the wording of the address. Late requests to address Council will not be considered. The Chief Executive shall not accept the notice unless he or she is satisfied that the address is proper to be presented. If a period of 8 days' or more notice is given, the address will form part of the published agenda.

13.4 In presenting an address, the person may speak for not more than five minutes. The speech shall reflect the wording referred to in Rule 13.3 above, and shall not constitute a personal attack upon any person. The person or persons making the address shall be heard in silence. Following the presentation of an address, the appropriate Cabinet Member or Committee Chair will be given the opportunity to respond to the submission for not more than five minutes.

- 13.5 Addresses shall be presented in order in which notice of them is received by the Chief Executive. There will be a maximum of ten speakers allowed per Council meeting on a first come, first served basis. Groups of persons with similar views should elect a spokesperson to speak on their behalf to avoid undue repetition of similar points. Spokespersons should identify in writing on whose behalf they are speaking as part of the registration process. The Director of Corporate Services to be authorised to ask speakers to consolidate their views if there are more than three speakers in the group.
- 13.6 Where the subject matter of an address received is within the terms of reference of Council, it shall be referred to the next convenient meeting of the relevant Council body within whose terms of reference it falls.
- 13.7 Where an address is referred to a meeting of a Council body, that meeting shall either report upon the subject matter to the next meeting of the Council or committee, or include their views upon the subject matter in their next report to the Council or committee.
- 13.8 Members of the public may present petitions to Council in accordance with procedure rule 27 below – for more information see the [Council's Petition process](#)<sup>7</sup>.
- 14 HEARING OF ADDRESSES BY COUNCILLORS**
- 14.1 At a meeting of the Council any Councillor may present an address which is relevant to some matter in relation to which the Authority has functions, or which affects the area of the Authority, or part of it, or the inhabitants of the area, or some of them.
- 14.2 The provision outlined in 14.1 above does not extend to applications for or objectors to:-
- planning permission;
  - any licence, notice, permission or order issued, served, granted or made by the Council.
- 14.3 At least seven days before the meeting at which the address is to be presented, the Councillor wishing to present it shall give notice of his or her intention to do so to the Chief Executive, in writing or by electronic mail, and shall show the address to him or her and he or she shall not accept the notice unless he or she is satisfied that the address is proper to be presented.
- 14.4 In presenting an address, the person may speak for not more than five minutes. These remarks shall relate to the matter indicated when the request was made and shall not constitute a personal attack upon any person. The Councillor making the address shall be heard in silence.
- 14.5 Addresses shall be presented in order in which notice of them is received by the Chief Executive.
- 14.6 Where the subject matter of an address received is within the terms of reference of the Cabinet or relevant Committee, it shall be referred to the next convenient meeting of the Cabinet or relevant Committee within whose terms of reference it falls. If any question arises as to the Cabinet or Committee to which the subject matter is to be referred, it shall be determined by the person presiding.

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<sup>7</sup> <https://www.lancaster.gov.uk/the-council-and-democracy/petitions>

14.7 Where an address is referred to a meeting of the Cabinet or Committee, the Cabinet or Committee shall either report upon the subject matter to the next meeting of the Council or include their views upon the subject matter in their next report to the Council.

14.8 Councillors may present petitions to Council in accordance with the procedure in rule 27 below or the [Council's Petition process](#).

## **15 MOTIONS ON NOTICE**

### **15.1 Notice**

Except for motions which can be moved without notice under Rule 16, written notice of every motion, from at least 2 Councillors, must be delivered to the Chief Executive not later than 10 days before the date of the meeting in writing or by electronic mail (from a known or recognised source). This can be collective notification for Councillors of the same political group. These will be entered in a book open to public inspection.

### **15.2 Motion Set Out in Agenda**

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

### **15.3 Officer Briefing Note**

Where a Motion for which Notice has been given is included on the Agenda, an Officer briefing note will be included on the Agenda to accompany that motion setting out in particular any key risks and potential financial and legal implications for the Council should the proposed motion be carried.

### **15.4 Scope**

Motions must be about matters for which the Council has a responsibility or which affect the area or residents, workers or visitors to the District and must not:

- be potentially defamatory, vexatious, frivolous or offensive;
- refers to applications for or objections to planning permission or any licence, notice or order issued, served or made by the Council; or
- relate to individual staffing matters or the personal information of Councillors or Officers

or be ruled out of order by the Chief Executive for other reasons.

### **15.5 Questions on Motions**

A Councillor may ask a question of the proposer of a Motion on notice, provided at least three days' notice in writing or by electronic mail (from a known or recognised source) of the question has been given to the Chief Executive and has not been rejected under the grounds stated in rule 12.4.

Questions shall be asked after the Motion has been moved and seconded and after the proposer has introduced and explained the Motion; before the Motion is opened up for debate and before any amendments are moved. Asking the question must take no longer than two minutes and only question per Councillor shall be permitted on a Motion. If a

member who has submitted a question is not present when the question is called the question may, with the consent of the Mayor, be asked by any other Councillor.

**15.6 Closure of Debate**

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

**16 MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the Minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee, Board or Member arising from an item on the summons for the meeting;
- (f) to receive reports or approve recommendations of the Cabinet, Committees or Officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) closure motions as set out in 17.11 below;
- (j) to suspend a particular Council Procedure Rule;
- (k) to exclude the public and press in accordance with the Access to Information Rules;
- (l) to not hear further a Councillor named under Rule 22.3 or to exclude them from the meeting under Rule 22.4; and
- (m) to give the consent of the Council where its consent is required by the Chair.

**17 RULES OF DEBATE**

**17.1 No Speeches Until Motion Seconded**

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

**17.2 Right to Require Motion in Writing**

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

**17.3 Seconded's Speech**

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

#### 17.4 **Content and Length of Speeches**

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

#### 17.5 **When a Councillor May Speak Again**

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

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

#### 17.6 **Amendments to Motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (1) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (2) to leave out words;
  - (3) to leave out words and insert or add others; or
  - (4) to insert or add wordsas long as the effect of (2) to (4) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If the proposer and seconder of a motion are in agreement, an amendment may be accepted as a 'friendly' amendment and be incorporated in the original motion as an alteration in accordance with Council Procedure Rule 17.7(b) provided that any such amendment must be provided to Democratic Services by noon the day before the Council meeting to enable Councillors to receive the wording no later than 24 hours before the meeting.
- (d) If an amendment is not carried, other amendments to the original motion may be moved.

- (e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (f) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

**17.7 Alteration of Motion**

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

**17.8 Withdrawal of Motion**

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

**17.9 Right to Reply**

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

**17.10 Motions Which May be Moved During Debate**

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to exclude the public and press in accordance with the Access to Information Rules;
- (d) not to hear further a Councillor named under Rule 22.3 or to exclude that person from the meeting under Rule 22.4;
- (e) closure motions as set out in 17.11 below.

**17.11 Closure Motions**

- (a) A Councillor, who has not already spoken in the debate, may move, without comment, the following motions at the end of a speech of another Councillor:

- (1) to proceed to the next business;
  - (2) that the question be now put;
  - (3) to adjourn a debate; or
  - (4) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he or she will put the procedural motion to the vote. If it is passed the mover of the original motion shall have a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, the Chair will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### **17.12 Duties of the Mayor or Person Presiding**

Where, in the Mayor's belief, any debate shall already have represented the views of Councillors, the Mayor shall, notwithstanding that no closure motion has been moved under Rule 17.11, have discretion to intervene to limit any further debate in order not to impede proper attention to further business.

#### **17.13 Point of Order**

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

#### **17.14 Personal Explanation**

A Councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

### **18 PREVIOUS DECISIONS AND MOTIONS**

#### **18.1 Motion to Rescind a Previous Decision**

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

#### **18.2 Motion Similar to One Previously Rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment

is signed by at least 15 Councillors, being a quorum of the Council. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **19 VOTING**

### **19.1 Majority**

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

### **19.2 Chair's Casting Vote**

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

### **19.3 Show of Hands**

Unless a recorded vote is demanded under Rule 19.4, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **19.4 Recorded Vote**

If 10 Councillors present at the meeting or in the case of a Committee one sixth of those present, rounded up if necessary with a minimum number of three, indicate their support for a recorded vote by standing (or if unable to stand, by otherwise indicating), the Proper Officer shall take the vote by calling the names of Councillors and recording whether they vote for or against the motion or amendment or abstain from voting in writing and this shall be entered into the Minutes.

### **19.5 Right to Require Individual Vote to be Recorded**

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

### **19.6 Voting on Appointments**

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

### **19.7 Recorded Votes for Budget Meetings**

Where votes are taken at a budget meeting of the Council on any decision relating to the making of a council tax calculation or the issuing of a precept, including any amendment motion, there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting. The Proper Officer shall take the vote by calling the names of Councillors and recording how or whether they vote.

## **20 MINUTES**



**20.1 Distribution**

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

**20.2 Signing the Minutes**

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

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

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

**20.4 Form of Minutes**

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

**21 EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in **Part 3** Section 2 of this Constitution or Procedure Rule 23 (Disturbance by Public).

**22 MEMBERS' CONDUCT**

**22.1 Standing to Speak**

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

**22.2 Chair Standing**

When the Chair stands during a debate (or if unable to stand otherwise indicates), any Councillor speaking at the time must stop and sit down. The meeting must be silent.

**22.3 Councillor not to be Heard Further**

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

**22.4 Councillor to Leave the Meeting**

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

**23 DISTURBANCE BY PUBLIC**

**23.1 Removal of Member of the Public**

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

**23.2 Clearance of Part of Meeting Room**

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

**23.3 General Disturbance**

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he or she thinks necessary.

**24 FILMING PHOTOGRAPHY AND RECORDING AT COUNCIL MEETINGS**

24.1 In accordance with the Openness of Local Government Bodies Regulations 2014, the reporting (including filming and recording) of meetings that are open to the public is permitted.

24.2 Whilst no prior permission is required, it is advisable that any person wishing to film or audio-record a meeting should contact the Communications and Marketing Team Leader in accordance with the [Council's Media Guidelines](#) so that necessary arrangements can be made.

24.3 The Council understands that some members of the public attending its meetings may not wish to be filmed. The Chair of the meeting will facilitate this preference by ensuring that any such request not to be filmed is respected.

24.4 Any activity, arising from the reporting of a meeting which disrupts the conduct of the meeting, (for example excessive noise or intrusive lighting or flash photography), may be dealt with under Rule 23 above.

**25 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

**25.1 Suspension**

All of these Council Rules of Procedure except Rule 19.5, 21, 23 and 24 may be suspended by motion on notice or without notice if at least one half of the whole number of Councillors are present. Suspension can only be for the duration of the meeting.

**25.2 Amendment**

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

**26 APPLICATION TO COMMITTEES AND OVERVIEW AND SCRUTINY**

26.1 All of the Council Rules of Procedure apply to meetings of Council. Only Rules 9, 10 and 16-25 (but not Rule 22.1) apply to meetings of the Cabinet, Committees and Overview and Scrutiny.

- 26.2 Where the Planning Regulatory Committee or the Licensing Committee is considering an individual application, any Councillor who represents the ward to which the application relates may address the relevant Committee to express views in favour or against the application; for a maximum of three minutes. Ward Councillors wishing to speak must register with Democratic Services before noon on the Thursday before the Committee meets and must state on whose behalf they will be speaking (i.e. their own; on behalf of their ward or on behalf of a group of residents) and whether they intend to speak in opposition or support or are neutral to the planning application or licensing matter.

## 27 PETITIONS

- (a) Petitions regarding matters affecting the area or the functions of the Council or relating to consultation exercises or pursuant to specific legislation may be accepted at the start of an Ordinary Council meeting. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council unless the Extraordinary Council Meeting is convened to consider the subject matter of the petition.
- (b) Petitions must be 'signed' (in person or by name if electronic) and contain the name, email address and contact details of the 'petition organiser', who should live, work or study in the area.
- (c) A Petition may be presented to and received by a meeting of the Council. Where it contains at least 500 signatories or petitioners, the appropriate Chief Officer will prepare a report which together with the Petition will be presented to Full Council. Council may debate the Petition and/or refer the Petition to the appropriate decision making body for further consideration.
- (d) Petitions which have fewer than 500 signatories will be presented to but not debated at a meeting of the Council and shall be referred to the relevant Chief Officer/Director(s).
- (e) Petitions that are considered by the Corporate Services Director or the Monitoring Officer to be vexatious, frivolous, abusive, potentially defamatory or otherwise inappropriate will not be accepted, nor Petitions that relate to confidential or exempt information or individual employee matters, including appointments, dismissals, pay, superannuation, complaints, grievances, or other personnel or confidential matters including complaints, grievances or other such related matters regarding Councillors.
- (f) Any petition that raises issues of competence or misconduct of officers will be referred to the Chief Executive (or to the Director of HR, Legal and Communications, in respect of the Chief Executive) or to the Monitoring Officer regarding allegations of Councillor competence or misconduct and will be considered by the Standards Committee under the authority's relevant Procedures, and not under this Petitions Procedure Rule.
- (g) Any request to speak to the petition must be made by 12 noon at least two days before the meeting and include the details of the petition and the speakers contact details and whether they live work or study in the area.
- (h) If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available on the Council's website [www.lancaster.gov.uk](http://www.lancaster.gov.uk) and from Customer Services ([customerservices@lancaster.gov.uk](mailto:customerservices@lancaster.gov.uk)).



## Part 3 – Section 2

### Cabinet Procedure Rules

#### 1. HOW THE CABINET OPERATES

##### 1. How the Executive Operates

##### 1.1 Who may make Executive Decisions?

The Leader determines the arrangements for the discharge of executive functions. The arrangements may provide for executive functions to be discharged by:

- i) The Leader;
- ii) Cabinet as a whole;
- iii) Individual Cabinet Members;
- iv) a Committee of the Cabinet;
- v) Officers of the Council;
- vi) if and when established - joint arrangements with other local authorities; or
- vii) another local authority;

##### 1.2 Delegation by the Leader

- (a) At the Annual meeting of the Council, the Leader will present to the Council the names of the people appointed to the Cabinet by the Leader (including the name of the Deputy Leader), and their [portfolios](#).
- (b) At the Annual meeting of the Council or as soon as practicable thereafter, the Leader will present to the Council a written record of:
  - (i) The detailed remits of the portfolios of the Cabinet Members.
  - (ii) Any delegations made by the Leader in respect of the discharge of the Council's executive functions. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:
    - The extent of authority of the Cabinet as a whole;
    - The extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
    - the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;
    - the nature and extent of any delegation of Executive functions to area committees, any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year; and
    - the nature and extent of any delegation to officers with details of any limitation on that delegation, and the post title of the officer to whom the delegation is made.

and these shall then be included in the Council's Constitution.

### 1.3 Sub-Delegation of Executive functions

- (a) Where the Leader delegates an executive function to the Cabinet, then unless the Leader directs otherwise, the Cabinet may delegate further to a committee of the Cabinet, an individual Cabinet member, a joint arrangement or to a Council officer.
- (b) Where the Leader delegates an executive function to a committee of the Cabinet or to an individual member of the Cabinet then unless the Leader directs otherwise, a committee of the Executive or an individual member of the Executive may delegate further to a Council officer.
- (c) Even where executive functions have been delegated under (a) or (b) above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.

### 1.4 The Executive's Scheme of Delegation

- (a) Subject to (b) below the Executive's Scheme of Delegation will be reported to Council. It will contain a description of the requirements set out in **Part 2** of this Constitution.
- (b) The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Director of Corporate Services and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The Director of Corporate Services will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a Cabinet Committee, notice will be deemed to be served on that committee when the Leader has served it on its Chair.

### 1.5 Conflicts of Interest

- (a) Where the Leader or any Member(s) of the Cabinet and its Committees have a conflict of interest, this should be dealt with as set out in the Councillors' Code of Conduct in **Part 4** of this Constitution.
- (b) If every Member of the Cabinet or its Committees has a conflict of interest, this may be dealt with by way of dispensations granted by the Monitoring Officer or the Standards Committee.
- (c) If the exercise of an executive function has been delegated to an Officer and should a conflict of interest arise, then the function will be exercised in the first instance by the person by whom the delegation was made and otherwise as set out in the Councillors' Code of Conduct in **Part 4** of this Constitution.

### 1.6 Cabinet Meetings – When and Where?

The Cabinet will usually meet monthly on dates and at times to be agreed by Leader. The Leader may agree to hold additional meetings as required. In determining the time for the meeting, regard should be had to maximising the accessibility of the public.

### 1.7 Meetings of the Cabinet

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

### 1.8 Quorum

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

### 1.9 How are Decisions to be taken by the Cabinet?

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in **Part 3 Section 4** of this Constitution.
- (b) Where executive decisions are delegated to a Committee of the Cabinet, the Rules for taking decisions shall be the same as those applying to the Cabinet.

### 1.10 Urgent Decisions

- (a) When an executive decision which is the responsibility of the Cabinet is needed prior to the next scheduled meeting, and it is not intended that the decision is made by the Leader, the procedures set out in the Access to Information Rules 14 and 15 must be followed (in **Part 3 Section 4**).
- (b) Decisions taken under this procedure must be reported into the next scheduled meeting of Cabinet.

### 1.11 Agendas

Cabinet members will take responsibility and ownership of Cabinet reports in their portfolio area of responsibility. Cabinet agenda should not include information reports.

## 2. CONDUCT OF THE CABINET AND ITS COMMITTEES

### 2.1 Chairing Meetings

- (a) The Leader of the Cabinet will preside. In the absence of the Leader, the Deputy Leader, will preside. In both the Leader and Deputy Leader's absence, then a person will be appointed to preside by those present.
- (b) The Leader will preside at any meeting of a Committee of the Cabinet at which s/he is present, or may appoint another person to do so. In the absence of the Cabinet Committee's Chair, then a person will be appointed to preside by those present.

### 2.2 Who may attend to observe?

Any Councillor and any member of the public may attend any Cabinet meeting or a meeting of its Committees held in public. All decision making meetings of the Cabinet and its Committees will be in public except for items of business where exempt or confidential information is to be discussed.

Cabinet Liaison Group meetings are not formal meetings of Cabinet or Committees and so the usual public notice provisions and the Access to Information Procedure Rules do not apply (see rule 2.9 below).

### 2.3 Business of the Meeting

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

- (a) consideration of the minutes of the last meeting;
- (b) declaration of interests, if any;
- (c) urgent business agreed by the Leader, or in the absence of the Leader, by the Deputy Leader or Chair of the meeting;
- (d) matters set out in the agenda for the meeting for decision including registered ward members and registered members of the public wishing to speak in accordance with the Council's [public speaking arrangements](#);
- (e) consideration of reports from Cabinet Committees;
- (f) consideration of reports from Overview and Scrutiny meetings;
- (g) matters referred to the Cabinet (whether by Overview and Scrutiny or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedures Rules set out in this Constitution; and
- (h) reports from the Chief Executive or Chief Officers.

### 2.4 Consultation

All reports to Cabinet from any Member of the Cabinet or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with Overview and Scrutiny or stakeholders (if any) and the outcome of that consultation. Reports about other matters will set out the details and outcome of any consultation undertaken as appropriate. The level of consultation required will be appropriate to the Council's obligations in law and the nature of the matter under consideration.

### 2.5 Cabinet Agenda Items

The Leader may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee or any member or officer in respect of that matter.

Any Member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered and that Councillor may, at the discretion of the Leader, be invited to attend the meeting, and with the consent of the Cabinet, to speak.

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



in question, then the relevant statutory Officer(s) may also require that a meeting be convened at which the matter will be considered.

## 2.6 Right of Members to Address Cabinet

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

## 2.7 Rights of the Public to Speak at Cabinet

- (a) Members of the public are permitted to speak on issues included on the Cabinet Agenda, with questions/comments from the public prior to the commencement of each item.
- (b) Notice of the wish to speak must be registered with Democratic Services in writing or by telephone before 12 Noon on the Thursday before Cabinet meets.
- (c) It is the responsibility of the person wishing to speak to find out the appropriate date that Cabinet will consider the item of business that they wish to speak on. This information can be obtained from Democratic Services. Late requests to speak at Cabinet will not be considered.
- (d) Any request to speak must include the person's name, address and contact telephone number, together with details of the item they wish to speak on. A written version of their speech or questions must be supplied at the time of registration (unless there are special circumstances).
- (e) Persons who have registered to speak should be in attendance 30 minutes prior to the commencement of the meeting to enable a list of speakers present to be passed to the Chair. Any latecomers who have not confirmed their intention to speak on the morning of the meeting will only be allowed to speak at the discretion of the Chair.
- (f) Democratic Services, having received notice from persons wishing to speak will re-order the agenda to enable items with public participation to be considered first.
- (g) There will be a maximum of ten speakers per Cabinet meeting on a first come first served basis with a maximum of five minutes per speaker.
- (h) There will be a maximum of three speakers on each item of business, but if there are less than ten speakers in total to speak at Cabinet then a maximum of four people will be allowed to speak on a particular item of business on a first come first served basis, at the discretion of the Chair.
- (i) Any group of persons with similar views should elect a spokesperson to speak on their behalf to avoid undue repetition of similar points. Spokespersons should identify in writing on whose behalf they are speaking as part of the registration process. The Director of Corporate Services is authorised to ask speakers to consolidate their views if there are more than three persons in the group.
- (i) Speakers must be prepared to respond to questions from Cabinet Members at the meeting if necessary.

## 2.8 Access to Information

The rules that determine how the Cabinet will conduct its meetings in respect of the following are set out in the Access to Information Procedure Rules in **Part 3 Section 4** of this Constitution:

- **Key Decisions** and **Key Decision** notices
- Exempt and Confidential Business
- Agendas, Reports, Minutes and Background Papers

The rules relating to urgent business procedures are set out in rules 14 and 15 of **Part 3 Section 4**.

## 2.9 Cabinet Liaison Groups

- (a) Cabinet Liaison Groups are informal bodies that may be created by Cabinet and they are purely consultative and not decision-making. They will be Chaired by a member of Cabinet and there is no restriction on size although the group must be limited to what is manageable and effective for their purpose. They may be time limited or of longer standing, again depending on their purpose.
- (b) The participants in the Group will be by invitation of the Chair and can be made up from any or all of the following:
  - Other members of Cabinet
  - Others from outside the Council
  - Other members of Council not on Cabinet
  - Council officers
- (c) *Terms of Reference:* Their Terms of Reference are to act as a sounding board for Cabinet Members. A briefing to a Cabinet Liaison Group is designed to elicit an opinion following informal discussion, e.g. e-government and develop effective consultation and communication links with community groups and other bodies with an interest in the subject area, not just to disseminate information. In this way, individual Cabinet members will have a wider information and advisory platform to inform executive decision-making and policy effectiveness.
- (d) Specific outcomes from their meetings may generate requests for pieces of work to be undertaken by officers or partner bodies. Alternatively, there could be a request to Overview and Scrutiny Committee to set up a Task Group to undertake a specific piece of work. There could also be specific reports to Cabinet, Committees of Cabinet, individual Cabinet members, or other Committees of Council recommending action for determination.
- (e) Each Liaison Group will have their terms of reference and expected outputs approved by Cabinet before they meet.

## Part 3, Section 3

### Overview and Scrutiny Procedure Rules

#### 1. Form and Composition of Overview and Scrutiny

The Council will have an Overview and Scrutiny Committee and Budget and Performance Panel as set out in **Part 2** of this Constitution.

In addition, the Overview and Scrutiny Committee may appoint Task Groups for a fixed period, on the expiry of which they shall cease to exist. The number of Task Groups active at any one time will be kept under review by the parent Overview and Scrutiny Committee.

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

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

#### 2. Task Groups

The Overview and Scrutiny Committee will decide whether a Task Group should be formal (subject to proportionality and Access to Information Rules) and report directly to Cabinet or Council or, exceptionally, informal and report back to the Overview and Scrutiny Committee (not subject to proportionality and Access to Information Rules). Named substitutes appointed at the establishment of the Task Group will be permitted.

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

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

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

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

#### 3. Who May Sit on Overview and Scrutiny?

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

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

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

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

The political groups will allocate Councillors to formal Task Groups according to proportionality, which shall be appointed under delegated authority by the Corporate Services Director in consultation with the Chair or in their absence the Vice Chair of the Overview and Scrutiny Committee.

Each Group may appoint up to two named substitutes for each Overview and Scrutiny meeting (excluding Task Groups) for the Municipal Year. Substitute Councillors will have all the powers and duties of any ordinary Member of the meeting.

Substitutes for the Overview and Scrutiny Committee will not be able to exercise any special powers or duties exercisable by the person they are substituting, such as counting as Members of Overview and Scrutiny Committee with regard to the quorum needed to trigger a Call-in request. No temporary substitutions will be allowed.

#### **4. Involvement with Overview and Scrutiny**

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

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

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

They may agree to hold additional meetings as required.

#### **6. Meetings of Task Groups**

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

#### **7. Quorum**

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

#### **8. Who Chairs meetings?**

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

## **9. Work Programme**

- (a) The Overview and Scrutiny Committee and Budget and Performance Panel will be responsible for setting their own Annual Work programme within the Terms of Reference set out in Part 3, Sections 12 and 13 of this Constitution.

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

- (b) The Overview and Scrutiny Committee shall meet in its capacity as crime and disorder committee no less than once in every twelve month period.

## **10. Agenda Items**

- (a) Any Member of the Overview and Scrutiny Committee and Budget and Performance Panel shall be entitled to give notice to the Chief Executive that they wish an item relevant to the Terms of Reference of the meeting of which they are a member to be included on the agenda for the first available meeting. The meeting will determine whether the issue should be included in its Work Programme based on its relevance as compared to the priorities as set out in the Scrutiny Work Programme.
- (b) Any Councillor may refer to the Committee under the Councillor Call for Action (CCfA) any local government or crime and disorder matter which is relevant to the functions of the Committee.
- (c) Any three Members of the Council may give written notice to the Chief Executive that they wish an item to be considered for inclusion in the Scrutiny Work Programme. If the Chief Executive receives such a notification, then she or he will refer the request to the first available meeting of the Overview and Scrutiny Committee who will determine if, when and how the item will be considered based on its relevance as compared to the priorities as set out in the Scrutiny Work Programme and inform Democratic Services accordingly so that it can be included in the Work Programme.
- (d) The Overview and Scrutiny Committee shall respond, as soon as their work programme permits, to requests from the Council and Cabinet to undertake a piece of work on their behalf in line with the procedure in (b) above. Where they do so, the

Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet or Council. Council or Cabinet shall consider the report of Overview and Scrutiny at its first available meeting.

#### 11. Policy Review and Development

- (a) The role of Overview and Scrutiny in relation to the development of the Council's existing Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules in **Part 3, Section 5** of the Constitution.
- (b) In relation to the development of the Council's approach to other matters not forming part of the Budget and Policy Framework, the Overview and Scrutiny Committee and the Budget and Performance panel may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations, subject to finance being available. They may invite witnesses to attend to address them on any matter under consideration.
- (c) Once it has formed recommendations on proposals for policy development, Overview and Scrutiny will prepare a formal report for consideration by the Cabinet or Council.
- (d) Cabinet or Council shall consider the report of Overview and Scrutiny at their first available meeting.
- (e) The Overview and Scrutiny Committee will have access to the notices of forthcoming **Key Decisions**. Even where an item is not the subject of detailed proposals from Overview and Scrutiny following a consideration of possible policy/service developments, the Overview and Scrutiny Committee will be able to respond in the course of the Cabinet's consultation process in relation to any **Key Decision**.

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

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

#### 13. Rights of Overview and Scrutiny Members to Documents

- (a) The rights of Members of Overview and Scrutiny regarding access to documents are set out in the Access to Information Procedures Rule in **Part 3** of this Constitution.
- (b) Nothing prevents more detailed liaison between the Cabinet and Overview and Scrutiny as appropriate depending on the particular matter under consideration.

#### 14. Members and Officers Giving Account

- (a) Any Overview and Scrutiny meeting may scrutinise and review decisions made, or actions taken in connection with the discharge of any Council functions within its Terms of Reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member(s) of the Cabinet, Chair of a Committee and/or Chief

Officers to attend before it to explain, answer questions, or give evidence in relation to matters within their remit regarding:

- (1) any particular decision or series of decisions;
- (2) the extent to which the actions taken implement Council policy; and/or
- (3) their performance

and it is the duty of those persons to attend if so required.

- (b) Where any Member of the Cabinet or Chief Officer is required to attend an Overview and Scrutiny meeting under this provision, the Chair of that meeting will inform the Head of Paid Service. This power may be exercised by the Chair of an Overview and Scrutiny meeting in advance of a meeting. The Head of Paid Service shall inform the Cabinet Member and/or appropriate Officer in writing, giving at least five working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced. Where papers are required to be produced then the Cabinet Member, or appropriate Officer concerned, will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Cabinet Member or Chief Officer is unable to attend on the required date, then the Overview and Scrutiny meeting shall in consultation with the Cabinet Member or appropriate officer, arrange an alternative date for attendance or in the case of officers request a suitable replacement to be agreed by the Chief Executive.

#### **15. Attendance by Others**

- (a) An Overview and Scrutiny meeting may invite any person to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and representatives from other parts of the public sector and Ward Councillors when considering Councillor Call for Action requests and shall invite such people to attend. Attendance under this paragraph is entirely optional.
- (b) Power to issue an invitation may be exercised by the Chair of an Overview and Scrutiny meeting in advance of a meeting.
- (c) As a general principle Overview and Scrutiny meetings, including the consideration of Call-in decisions, should be open to any interested Councillor or group of Councillors such as a relevant Task Group and their attendance encouraged and contributions welcomed at the discretion of the Chair.
- (d) When exercising its functions as crime and disorder committee, the Committee may require the attendance before it of another officer or employee of a responsible authority or of a co-operating person or body, as defined in the Crime and Disorder Act 1998 (and Regulations) in order to answer questions.

#### **16. Call-In Arrangements**

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

decision making principles set out in **Part 1** or other reasons, provided that the reasons are specified in full on the form requesting the call-in.

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



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

### **17. Call-in and Urgency**

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

### **18. Call-in Procedure**

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

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

### **19. Councillor Call for Action**

- 19.1 Councillor Call for Action (CCfA) is a process where a Councillor can act on behalf of the residents of their Ward to resolve a local issue of concern through a mechanism utilizing the scrutiny process. Councillors may use this to try to bring about specific solutions for local problems. It is designed as a 'long stop', to be used when all other attempts at resolution have failed.

- 19.2 This is not a substitute for other means of problem resolution. It is a means of last resort if other methods have not been successful. As such, it is expected that it will be used sparingly.
- 19.3 The Overview and Scrutiny Committee's objective, when considering a CCfA is to recommend a resolution of the issue raised.
- 19.4 A CCfA will only be discussed by the Overview and Scrutiny Committee if the Committee is satisfied that:
- the Councillor has made all reasonable efforts to resolve the matter via direct liaison with Council officers and /or relevant partners; and
  - the issue of concern is a matter in respect of which the Council has a power or duty to deal with and which is not precluded by adopted Council policy or legislation;
  - the issue of concern has a significant impact on a part or the whole of that Councillor's Ward; and
  - meets the requirements of the Councillor Call for Action checklist.
- 19.5 A CCfA will not be included on the Overview and Scrutiny Committee agenda if the request relates to:
- (a) any matter relating to a planning decision;
  - (b) any matter relating to a licensing decision;
  - (c) any matter relating to an individual or entity in respect of which that individual has a right of recourse to a review or right of appeal conferred by or under any enactment or through the Council's Complaints procedures;
  - (d) any matter which, following the advice of the Monitoring Officer, is considered to be potentially defamatory, vexatious, offensive, frivolous or discriminatory.
- 19.6 The issue raised by the CCfA will be the subject of a report from the relevant Officer, as designated by the Chief Executive, with such supporting information and evidence as is reasonably available. If the matter also, or exclusively, entails consideration of information held by another public body or partner, an appropriate representative shall be invited to the Overview and Scrutiny Committee to provide that information, make representations and answer questions.
- 19.7 The CCfA will be considered by the Overview and Scrutiny Committee in public, unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Council's Access to Information Procedure Rules (**Part 3 Section 4**).
- 19.8 The Councillor who raised the CCfA will be invited to attend the meeting and may address the Overview and Scrutiny Committee.
- 19.9 The Overview and Scrutiny Committee may, at the Chair's discretion, consider representations from any residents of the Ward affected by the issue subject to Call for Action.
- 19.10 The Overview and Scrutiny Committee shall, after considering the CCfA, decide whether to accept and proceed with the Call for Action. If the Committee decides not to proceed with the CCfA it will provide written reasons for its decision and will request Officers to advise the Ward Councillor(s) of the decision in writing.
- 19.11 If the Overview and Scrutiny Committee decides to proceed with the Call for Action the Committee shall decide whether to deal with this issue itself, or alternatively form

a Task Group to investigate the matter using, if appropriate, witnesses to gather evidence as necessary. A final report recommending a resolution to the issue raised will then be produced, a copy of the final report will be forwarded to the Monitoring Officer, in accordance with Overview and Scrutiny Procedure Rule 12, if this is a Council issue. A copy of the final report may also be submitted to any appropriate external organisation or partnership, if this is appropriate.

19.12 It should be noted that a CCfA relating to crime and disorder matters will be considered by the Committee in its capacity as crime and disorder committee, but following the procedures set out above.

## **20. The Party Whip**

Overview and Scrutiny Committee, Budget and Performance Panel and Task Group members will not be subject to a Party Whip.

## **21. Procedure at Overview and Scrutiny Meetings**

(a) Matters for discussion at meetings will reflect the Scrutiny Work Programme or in the case of Task Groups, their Terms of Reference, but each meeting shall consider the following business:

- (1) Minutes of the last meeting;
- (2) declarations of interest;
- (3) urgent business;
- (4) consideration of any decision that has been called-in;\*
- (5) consideration of any requests for Councillor Call for Action (in accordance with the process),
- (6) responses from the Cabinet or Council to Overview and Scrutiny reports and call-ins;\*
- (7) items raised by Members of the Overview and Scrutiny meeting;
- (8) the business otherwise set out on the Agenda for the meeting.

\* only applies to the Overview and Scrutiny Committee

(b) Where Overview and Scrutiny meetings conduct investigations (e.g. with a view to policy development), they may invite people to attend to give evidence. These meetings are to be conducted in accordance with the following principles:

- (1) that the investigation be conducted fairly and all Members of the Overview and Scrutiny meeting being given the opportunity to ask questions of attendees and to contribute and speak;
- (2) that those assisting by giving evidence be treated with respect and courtesy; and
- (3) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

(c) Following any investigation or review, the Overview and Scrutiny meeting shall prepare a report for submission to Cabinet, Council, external body or partnership, as appropriate, and shall make its report and findings public.

## **22. Matters within the remit of more than one Overview and Scrutiny Meeting**

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

## Part 3 – Section 4

### Access to Information Procedure Rules

#### 1. SCOPE

With the exception of Rules 10.1 and 10.2, Rules 1 to 11 apply to all meetings of Council and its Committees, Cabinet and its Committees, and Overview and Scrutiny meetings (including formally constituted Task Groups). Rules 10.1 and 10.2 apply to all meetings of the Cabinet and its committees.

#### 2. ADDITIONAL RIGHTS TO INFORMATION

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

#### 3. RIGHTS TO ATTEND MEETINGS

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

#### 4. NOTICES OF MEETING

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at Lancaster Town Hall and Morecambe Town Hall [and on the Council's Website](#).

#### 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will publish copies of the agenda and reports open to the public on its [website](#) and make them available for inspection at Lancaster and Morecambe Town Halls at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be published and open to inspection from the time when the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Director of Corporate Services shall make each such report available to the public as soon as the report is completed and sent to councillors.

#### 6. SUPPLY OF COPIES

The Council will supply copies of:

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

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

#### 7. ACCESS TO MINUTES ETC AFTER THE MEETING

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

- (a) the minutes of the meeting or records of decisions taken, for all meetings of the Council, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## 8. BACKGROUND PAPERS

### 8.1 List of Background Papers

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

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

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

### 8.2 Public Inspection of background papers

Background papers will remain available for public inspection for four years after the date of the meeting. A list of background papers for meetings of the Cabinet and its committees will be published on the Council's website when the agenda is published and copies will be made available at Lancaster Town Hall and Morecambe Town Hall or by e-mail from [democracy@lancaster.gov.uk](mailto:democracy@lancaster.gov.uk)

## 9. SUMMARY OF THE PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and available to the public at Lancaster Town Hall and Morecambe Town Hall and can be [accessed here](#).

## 10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

### 10.01 Notice of Private Meetings of Cabinet

When the public are to be excluded from a meeting, or part of a meeting of the Cabinet or its Committees a notice of intention to hold a meeting in private will be published on the Council's [website](#) at least 28 clear days before the date of the private meeting. The notice will also be made available at Lancaster and Morecambe Town Halls.

The notice will state the reasons why the meeting is to be held in private and how to make representations about holding the meeting in public.

At least five clear days before the meeting a further notice will be published of the intention to hold a private meeting. This notice will include a statement of the reasons why the meeting

is to be held in private, details of any representations made about holding the meeting in public, and the response to those representations.

**10.02 Urgent Private Meetings of Cabinet**

If the urgency of a decision makes compliance with rule 10.01 impracticable, the decision maker or decision making body will seek agreement from the Chair of the Overview and Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. In the absence of the Chair of the Overview and Scrutiny Committee, the Mayor shall be asked for their agreement and, in their absence, the Deputy Mayor. If agreement is granted, a notice will be published on the Council’s website and made available at the two Town Halls setting out why the meeting is urgent and cannot reasonably be deferred.

**10.03 Confidential Information – requirement to exclude public**

Subject to Rules 10.01 and 10.02 above, the public must be excluded from any meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

**10.04 Exempt Information – discretion to exclude public**

Subject to Rules 10.01 and 10.02 above, the public may be excluded from any meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

In determining whether information is to be treated as exempt, Councillors will consider the extent to which, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

**10.05 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure, and information the public disclosure of which is prohibited by Court Order, or by virtue of any enactment.

**10.06 Meaning of exempt information**

Exempt information means information falling within the following categories:

Description of Exempt Information	Qualification
All categories (1-7) of otherwise exempt information	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.*
1. Information relating to any individual	Exempt information if and so long, as in all the circumstances of the case, the public interest in

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	maintaining the exemption outweighs the public interest in disclosing the information.
2. Information which is likely to reveal the identity of an individual.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>(a) the Companies Act 2006</li> <li>(b) the Friendly Societies Act 1974</li> <li>(c) the Friendly Societies Act 1992</li> <li>(d) the Co-operative and Community Benefit Societies Act 2014</li> <li>(e) the Building Societies Act 1986</li> <li>(f) the Charities Act 2011</li> </ul>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
6. Information which reveals that the authority proposes:- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.



## 10.7 **Members of the Council**

A member of the Council may attend and part of a meeting that is open to the public except where the Councillor seeking to attend has a disclosable pecuniary interest or another interest within paragraph 12(1) of Part B of the Councillors' Code of Conduct, in the item of business.

## 11. **EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

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

## 12. **PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 14 (general exception) and Rule 15 (special urgency), a **Key Decision** may not be taken unless:

- (a) a Notice (called here a **Key Decision** Notice) has been published in connection with the matter in question at least 28 clear days before the date when the decision is to be taken; and
- (b) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 7 (notice of and summons to meetings).

## 13. **KEY DECISION NOTICE**

### 13.1 **Content of the Key Decision Notice**

A **Key Decision** Notice will contain details of:

- (a) a brief explanation of the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name, title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which or the period within which the decision will be taken;
- (d) a list of the documents submitted to the decision taker for consideration in relation to the matter and how to obtain copies of such documents;
- (e) a statement that other documents may be taken into account by the decision taker and how to obtain copies of any such documents.

## 14. **GENERAL EXCEPTION – URGENT BUSINESS**

Subject to Rule 16, where a matter which is a **Key Decision** requires an urgent decision and the required 28 days' notice has not been given, the decision may still be taken if:

- (a) The Chair of the Overview and Scrutiny Committee, or, if there is no such person, each Member of the Overview and Scrutiny Committee, has been informed by notice in writing of the matter about which the decision is to be made;

- (b) a **Key Decision** Notice has been published and made available for inspection by the public; and
- (c) five clear days have elapsed following the day on which the **Key Decision** Notice was published and made available.

15. **SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. If the Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Mayor will suffice, or, in the absence of the Mayor, the agreement of the Deputy Mayor.

16. **REPORT TO COUNCIL**

16.01 **Report to Council when the Key Decision procedure is not followed**

If an executive decision has been made and was not treated as a **Key Decision**, and the Overview and Scrutiny Committee is of the opinion that the decision should have been treated as a key decision, the Overview and Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and if the Cabinet is of the opinion that the decision was not a **Key Decision**, the reasons for that opinion. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chair or any three Councillors. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

16.02 **Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

17. **RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Proper Officer or, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision, any alternative options considered and rejected at that meeting and any conflict of interest relating to the matter decided which is declared by any Member of the decision-making body which made the decision.

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

The Cabinet will meet in public for all its decisions, except for decisions based on those parts of any document that contain exempt or confidential information. In such cases Rules 10.01 and 10.02 will apply.

**19. ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS**

**19.01 Material relating to business to be transacted at a public meeting of Cabinet**

All Councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business to be transacted at a public meeting, and any such document must be available for inspection for at least five clear days before the meeting.

**19.02 Other Material relating to business transacted**

Subject to 19.03 below all Councillors will be entitled to inspect any document which is in the possession or under the control of Cabinet and contains material relating to any business transacted at a private meeting of Cabinet, or any decision made by an individual Cabinet Member or an Officer, within 24 hours after the meeting concludes or after the decision has been made.

**19.03 Exceptions**

Regulation 16(6) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 provides that a document is not required to be available for inspection under Rules 19.01 or 19.02 if it contains exempt information as set out in Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of contract negotiations), or paragraph 6 of Schedule 12A.

A document is not required to be available for inspection if advice provided by a political adviser or assistant would be disclosed.

**19.04 Nature of Rights**

A Councillor may have additional rights in particular circumstances at common law, where access to particular information is necessary for the performance of their Council duties. A Councillor may be required to demonstrate why access to specific information or documentation is required when the relevant information or documentation is not in the public domain.

**19.05 Confidential Information**

Councillors must not disclose confidential information or exempt information and must only use information in accordance with the Appendix below.

**20. OVERVIEW AND SCRUTINY'S ACCESS TO DOCUMENTS**

20.01 Regulation 17 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012 provides that within 10 clear days of so requesting, a Member of a relevant Overview and Scrutiny Committee meeting will be entitled to copies of any document which is in the possession or control of the Leader or Cabinet and which contains material relating to:

- (i) any business that has been transacted at a meeting of a decision-making body of the Council;
- (ii) any decision that has been made by an individual Cabinet Member in accordance with executive arrangements; or

- (iii) any decision that has been made by an Officer of the Council in accordance with executive arrangements

except for documents, or parts of documents, which contain:

- (a) advice provided by a political adviser; or
- (b) exempt or confidential information, unless that information is relevant to:
  - (i) an action or decision that the Councillor is reviewing or scrutinising; or
  - (ii) any review contained in the work programme of the Overview and Scrutiny Committee or Budget and Performance Panel.

Overview and Scrutiny will not be entitled to any document which is in draft form.

Where the Cabinet determines that a Member of an Overview and Scrutiny committee is not entitled to a copy of a document or part of a document for a reason set out in (a) or (b) above, it will provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

## **21 PUBLIC PARTICIPATION**

The Council supports transparency in the public interest.

The Council's rules on [public participation](#) in meetings are available on the Council's website or from [democracy@lancaster.gov.uk](mailto:democracy@lancaster.gov.uk)

## APPENDIX

### REGULATIONS GOVERNING THE DISCLOSURE AND CONFIDENTIALITY OF INFORMATION

1. The Local Government Act 1972, s100, deals with the admission of the public and press to local authority committee meetings and the categories of exempt and confidential information which are set out in Schedule 12A and the Council's Access to Information Rules.
2. The Local Government Planning and Land Act 1980, s2, requires local authorities to publish certain categories of information in accordance with codes of recommended practice and any statutory regulations made by the Secretary of State (s3). This includes (s3(5)) information about the number of employees or the number of any description of their employees. The Government has also issued a number of Transparency Codes
3. The Local Government Act 1972, as amended by the Local Government (Access to Information) Act 1985 requires principal councils to maintain a list, open to public inspection, specifying those powers of the authority which are exercisable from time to time by Officers of the authority in pursuance of its duties under statutory powers. Any person having custody of documents to which right of access applies would commit an offence by obstructing that right.
4. The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 make provisions in respect of executive decisions and **Key Decisions**.
5. The requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 for disclosure of information.
6. The General Data Protection Regulation (GDPR) and the Data Protection Act 2018.
7. The Accounts and Audit Regulations 2015 require details of all remuneration and severance payments, including pension strain, paid to senior Officers to be itemised in the Council's accounts.
8. Part 2 of the National Joint Council for Local Government Services, Section 2.1 to 2.2 deals with official conduct of Chief Officers.

## Part 3 – Section 5

### Budget and Policy Framework Procedure Rules

#### 1. The Framework for Cabinet Decisions

The Council will be responsible for the adoption of its Budget and Policy Framework as set out **Part 2**, Section 2 of this Constitution. Once the Budget and Policy Framework is in place, it will be the responsibility of the Cabinet to work within and implement it. Any amendment to the Budget and Policy Framework can only be agreed by Council unless otherwise specified in Financial Regulations (e.g. through virement of funds).

#### 2. Process for Developing the Framework

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

- (a) At an appropriate period before a new plan/strategy/budget needs to be adopted, that is not included in the Budget and Policy Framework, the Cabinet will publish initial proposals for inclusion or amendments to the Budget and Policy Framework, having first canvassed the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration. Representations made to the Cabinet during any consultation process shall be taken into account in formulating the initial proposals and will be reflected in any report dealing with them. If the matter is one where Overview and Scrutiny has carried out research into a new policy initiative, then the outcome of that review will be reported to the Cabinet and considered in the preparation of their initial proposals.
- (b) The Cabinet's initial proposals may be referred to or requested by the Overview and Scrutiny Committee for further consideration by inclusion in their Work Plans. The Overview and Scrutiny Committee may canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration but should have particular regard not to duplicate any consultation carried out by the Cabinet. The Overview and Scrutiny Committee shall report to the Cabinet on the outcome of its deliberations within an appropriate timescale agreed with Cabinet. The timescale for each matter considered will depend on the particular issue at stake.
- (c) Each year Cabinet will review the Council's existing Budget and Policy Framework plans and strategies in line with the approved timetable for preparing the Budget and Policy Framework. The Budget and Performance Panel may also scrutinise existing budgets and policies and where appropriate may prepare a report for consideration by Cabinet.
- (d) In both instances where either a new or existing plan/strategy/budget is being considered the Overview and Scrutiny Committee or Budget and Performance Panel will have an opportunity to comment. If it considers it appropriate, Cabinet may then amend its proposals before submitting them to Council for consideration. It will also report to Council on how it has taken into account any recommendations from the Overview and Scrutiny Committee or Budget and Performance Panel. The report should be completed within the agreed timescale for preparing the annual Budget and updating the Policy Framework.
- (e) The Council will consider the proposals of the Cabinet and if it does not adopt the proposals as presented, it must inform the Leader of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the

executive to reconsider, in the light of those objections, the draft plan or strategy submitted within a period of at least 5 working days:

- Cabinet will then meet within the timescale set by Council and will:
- submit to Council a revision of the draft proposals as amended by Cabinet with reasons for any amendments;

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

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

and will be undertaken in accordance with the approved Budget and Policy Framework time-table.

- (g) In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the budget in accordance with paragraph 5 of these Rules. Any other changes to the budget and policy framework can only be approved by Council unless otherwise specified in Financial Regulations.
- (h) Where, before 8th February in any financial year, the authority's executive submits to the authority for its consideration in relation to the following financial year—
- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of [sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ, of the Local Government Finance Act 1992] 1;
  - (b) estimates of other amounts to be used for the purposes of such a calculation;
  - (c) estimates of such a calculation; or
  - (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,
- and following consideration of those estimates or amounts the authority has any objections to them, it must provide the Leader with a period of at least 5 working days to:
- (a) submit a revision of the estimates or amounts as amended by the executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or
  - (b) inform the authority of any disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.

The authority must then meet and agree the estimates, calculations and budget as set out above in the manner envisaged at (e) and (f) above, taking into account the views of the Leader and Cabinet.

### 3. Decisions Outside the Budget or Policy Framework

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

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

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

- (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 Chair of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

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

**5. Virement**

Steps taken by the Cabinet, a Committee of the Cabinet, or Officers, or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head unless otherwise authorised in the Financial Regulations in **Part 3**, Section 6 of this Constitution.

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



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

Financial Regulations do allow for minor amendments to be made in year to agreed budgets. The details of this are included in **Part 3** of this Constitution.

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

- (a) Where the Chair of the Overview and Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then the Chair of the Overview and Scrutiny Committee shall seek advice from the Monitoring Officer and or the Chief Finance Officer in accordance with procedure rule 3(b) above.
- (b) In respect of functions which are the responsibility of the Cabinet, in responding to the matter raised by the Chair of the Overview and Scrutiny Committee, the Monitoring Officer and/or Chief Finance Officer shall report to the Cabinet with a copy to the Chair of the Overview and Scrutiny Committee. In the event that the Monitoring Officer and/or the Chief Finance Officer conclude that the decision was a departure from the Budget and Policy Framework, the Cabinet must meet to decide what action to take in respect of the report regardless of whether the decision is delegated or not. The Cabinet must then report to Council on its preferred course of action, and include the statutory Officers' comments. If the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure, Cabinet will report directly back to the Overview and Scrutiny Committee.
- (c) In such cases, where the Cabinet will report to Council, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 days of receiving the Cabinet report. At the meeting, it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
  - (1) approve that the decision or proposal of the Cabinet falls within the existing Budget and Policy Framework. In this case, no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (2) amend the Council's Budget or policy concerned to encompass the decision or proposal and agree to the decision with immediate effect. In this case, no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (3) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget and does not amend the existing framework to accommodate it, approve a decision contrary to the Cabinet's recommendations in accordance with the advice of either the Monitoring Officer and/or the Chief Finance Officer.

## Part 3 – Section 6

### Officer Employment Procedure Rules

#### 1. RECRUITMENT AND APPOINTMENT

##### (a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they or their partner are the parent, grandparent, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of or in a continuing close personal relationship with an existing councillor or officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

##### (b) Seeking support for appointment

- (i) Subject to sub-paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any councillor or officer for any appointment with the Council. The content of this paragraph will be included in any recruitment information
- (ii) Subject to sub-paragraph (iii), no Councillor will seek support for any person for any appointment as an officer with the Council.
- (iii) Nothing in sub-paragraphs (i) and (ii) will preclude a Councillor or officer from giving a written reference for a candidate for submission with an application for appointment

#### 2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS

- (1) Where it is proposed to appoint the Head of Paid Service or a Chief Officer and it is not proposed that the appointment be made exclusively from among existing officers, the Council will:
  - (a) draw up a statement specifying:
    - (i) the duties of the officer concerned (the job description); and
    - (ii) any qualifications or qualities to be sought in the person to be appointed (the person specification);
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statements mentioned in sub-paragraph (a) above to be sent to any person on request.
- (2) Where a post has been advertised as provided in sub-paragraph (1)(b) above, all qualified applicants for the post shall be interviewed, or a short list of such qualified applicants shall be selected, and those included on the short list shall be interviewed.

- (3) Where no qualified person has applied, further arrangements shall be made for advertisement in accordance with sub-paragraph 1(b) above

**3. APPOINTMENT OF HEAD OF PAID SERVICE AND DISMISSAL OF HEAD OF PAID SERVICE, CHIEF FINANCE OFFICER AND MONITORING OFFICER**

- (a) In making arrangements for the appointment of the Head of Paid Service, the Council will on each occasion designate an appropriate ad hoc Committee, constituted with regard to proportional representation, and including at least one member of Cabinet, to make a recommendation to Council on the appointment. The Council will approve the appointment of the Head of Paid Service following the recommendation of such Committee, and the Council must approve the appointment before an offer of appointment is made. In addition, in formulating the arrangements for the appointment, Council may request the involvement of the Cabinet, Overview and Scrutiny Committee and the Personnel Committee at any stage of the process.
- (b) The dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer must be approved by the Council, following the recommendation of such dismissal by the Personnel Committee. The Committee when making such a recommendation must include at least one member of the Cabinet. The Council must approve the dismissal before notice of dismissal is given.

**4. APPOINTMENT AND DISMISSAL OF CHIEF OFFICERS**

- (a) The appointment of a Chief Officer will be made by the Personnel Committee, which, when making such appointment must include at least one member of the Cabinet.
- (b) Subject to paragraph 3(b) above, the dismissal of a Chief Officer is the responsibility of the Personnel Committee. The Committee when dismissing a Chief Officer must include at least one member of the Cabinet.

**5. OTHER OFFICERS**

- (a) The function of appointment and dismissal of, and taking disciplinary action against any officer other than the Head of Paid Service or a Chief Officer is the responsibility of the Head of Paid Service (Chief Executive) or his/her nominee, and, (save in respect of Deputy Chief Officers as defined in Section 2(8) of the Local Government and Housing Act 1989), may not be discharged by Councillors. This is a requirement of the Local Authorities (Standing Orders) (England) Regulations 2001.
- (b) Any disciplinary action will be taken in accordance with the Council's Disciplinary Policy and Procedure, as adopted from time to time.
- (c) Nothing in sub-paragraph (a) above shall prevent a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by an officer against any decision relating to the dismissal of, or taking disciplinary action against that officer.
- (d) In relation to political assistants:
- no appointment to any post allocated to a political group shall be made until the authority have allocated a post to each of the groups which qualify for one;
  - there shall be no allocation of a post to a political group which does not qualify for one;

- the allocation of more than one post to any one political group shall be prohibited; and
- any appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## 6. CONSULTATION WITH CABINET MEMBERS

No offer of an appointment or notice of dismissal in relation to the appointment or dismissal of the Head of Paid Service, a Chief Officer or a Deputy Chief Officer (as defined in Section 2(8) of the Local Government and Housing Act 1989) shall be given by the appointor or dismissor (as defined in the Local Authorities (Standing Orders) (England) Regulations 2001) until:

- (a) the appointor or dismissor has notified the Director of Corporate Services of the name of the person to be appointed or dismissed and any other particulars relevant to the appointment or dismissal and the period within which any objection is to be made by the Leader on behalf of the Cabinet; and
- (b) the Director of Corporate Services has notified every member of the Cabinet of the name of the person to be appointed or dismissed, and any other particulars relevant to the appointment or dismissal which the appointor or dismissor has notified to the Chief Officer (Governance), and the period within which any objection to the appointment or dismissal is to be made by the Leader on behalf of the Cabinet to the Chief Officer (Governance); and
- (c) either
  - (i) the Leader has, within the period specified in the notice under sub-paragraph (b) notified the Director of Corporate Services that neither he/she nor any other member of the Cabinet has any objection to the appointment or dismissal;
  - (ii) the Director of Corporate Services has notified the appointor or dismissor that no objection was received within that period from the Leader; or
  - (iii) the appointor or dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

## 7. INTERPRETATION

In this paragraph and in paragraph 8 below:

- (a) “the 2011 Act” means the Localism Act 2011;
- (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Order) (England) Regulations 2001;
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the Council’s area in accordance with the Representation of the People Acts;

- (e) “The Panel” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of a relevant officer;
- (f) “relevant meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.

**8. DISCIPLINARY ACTION – HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCE OFFICER**

- (a) A relevant officer may not be dismissed by the Council unless the procedure set out in this paragraph is complied with.
- (b) The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- (c) In sub-paragraph (b) above, “relevant independent persons” means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
- (d) Subject to sub-paragraph (e) below, the Council must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with subparagraph (b) above in accordance with the following priority order:
  - (i) a relevant independent person who has been appointed by the Council and who is a local government elector;
  - (ii) any other relevant independent person who has been appointed by the Council;
  - (iii) a relevant independent person who has been appointed by another authority or authorities
- (e) The Council is not required to appoint more than two relevant independent persons in accordance with sub-paragraph (d), but may do so.
- (f) The Council must appoint any Panel at least 20 working days before the relevant meeting.
- (g) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:
  - (i) any advice, views or recommendations of the Panel
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the relevant officer.
- (h) Any remuneration allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowance or fees

payable to that independent person in respect of that person's role as an independent person under the 2011 Act.

**9. DISCIPLINARY ACTION – HEAD OF PAID SERVICE AND CHIEF OFFICERS**

Subject to paragraph 8 above, the Personnel Committee has delegated authority to take disciplinary action against the Head of Paid Service and Chief Officers, and to dismiss Chief Officers on disciplinary grounds

- (a) Any proposal to dismiss the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer must be approved by Full Council.
- (b) Where the Personnel Committee meets to consider the taking of disciplinary action against the Head of Paid Service or a Chief Officer, the Committee must include at least one member of the Cabinet.
- (c) The Investigation and Disciplinary Committee for the purposes of the JNC Conditions of Service shall be drawn from the Personnel Committee. That Committee must include at least one member of the Cabinet.

**10. NO DIRECTIONS TO BE GIVEN TO PERSONS MAKING APPOINTMENTS OR TAKING DISCIPLINARY ACTION**

Save as specifically provided for elsewhere in these Rules neither the Council nor the Cabinet or Committee or Overview and Scrutiny meeting or individual Councillor, nor any other person shall directly or indirectly:

- (i) give directions to any person taking any step in relation to an appointment to a post in the paid service of the authority as to the identity of the person to be appointed;
- (ii) give directions about the taking of any disciplinary action in relation to a person in the paid service of the authority; or
- (iii) otherwise interfere with the making of such an appointment or the taking of disciplinary action.

**Part 3 – Section 7**

Financial Procedure Rules.....

**Part 3 – Section 8**

Contract Procedure Rules.....8

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<sup>8</sup> To follow in a later phase



# PART 4

## CODES AND PROTOCOLS

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<sup>9</sup> Hyperlink docs

**Part 4 - Section 1  
Officers' Code of Conduct**

**1 OBJECTIVES AND STATUS OF THE CODE OF CONDUCT**

- 1.1 The public are entitled to expect the highest standards of conduct from all employees who work within local government. This Code of Conduct outlines existing laws, regulations and conditions of service, and provides employees with guidance to assist them in their day-to-day work.
- 1.2 The purpose of the Code is to help ensure that the Authority's activities, through the actions of its employees, are conducted to the highest standards, as expected of Local Government, by:
- ◆ detailing existing laws, regulations and conditions of service.
  - ◆ providing further guidance to assist employees in their day-to-day work.
  - ◆ specifying standards and procedures which will help protect both the Council and its employees from misunderstanding and undue criticism.
- 1.3 The adopted Code of Conduct applies as part of the conditions of service of all employees working under a contract of employment to the Authority. All employees are expected to read, understand and accept the Code, and abide by the standards of behaviour expressed within it. The standards specified should also be adhered to by employees in any activities undertaken as members of companies, voluntary organisations or any other body and in their personal lives generally.
- 1.4 The Code does not replace, negate or remove any of the conduct issues set out in the various national terms and conditions, or in legislation such as the *Local Government and Housing Act 1989 and the Local Government Act 2000*, but seeks to clarify and consolidate all such conduct issues within a locally adopted code.
- 1.5 Employees are expected to follow the standards of behaviour set out in the Code, and should be aware that failure to meet these standards may lead to action being taken by the Council under its Disciplinary Procedure.

**2 CORRUPTION**

**2.1 Background**

- (a) The Council aims to promote the high standards of personal behaviour expected of all employees in the public services. The public has every right to expect the highest standards of honesty and stewardship of public money and resources.
- (b) Under *Section 117(1) of the Local Government Act 1972*, Officers are required to notify the Authority of pecuniary or personal interests in contracts which the Authority is proposing to enter into (excluding contracts in the employee's own name). This requirement is embraced in National Conditions of Service also.
- (c) Under *Section 117(2) of the same Act*, an employee is forbidden "*under cover of his office or employment (to) accept any fee or reward whatsoever other than his proper remuneration*".

- (d) The acceptance of gifts by way of inducement or reward is covered by the Bribery Acts which provide that it is an offence for employees corruptly to accept any gifts or consideration as an inducement or reward for:
- ◆ doing, or refraining from doing, anything in their official capacity; or
  - ◆ showing favour or disfavour to any person in their official capacity.
- (ii) any money, gift or consideration received by an employee in public service from a person or organisation holding or seeking to obtain a contract will be deemed by the courts to have been received corruptly unless the employee proves to the contrary.

## 2.2 Expected Standard

**Employees must at all times exercise due caution and care to avoid any possible allegation, however unfounded, that business has been conducted improperly or corruptly.**

## 2.3 How To Comply With The Standard

- (a) You should be aware that it is a serious criminal offence to corruptly receive or give any gift, loan, fee, reward or advantage for doing or refraining from doing something, or to show favour or disfavour to any person in your official capacity. If an allegation is made, it is for you to demonstrate that any such rewards have not been corruptly given or received. You should also be aware that this applies equally to bodies already holding contracts as to those seeking to secure contracts.
- (b) You must declare any personal or pecuniary interest in contracts which the Authority is proposing to enter into, in accordance with the procedures laid down in Sections 7 and 8 of the Code, and observe the procedures for dealing with gifts and hospitality in Section 9.
- (c) You should be aware that any departure from these standards will be treated as a most serious matter, both under the terms of the Council's disciplinary procedures, and where necessary, through the processes of law.

## 3 STANDARDS OF CONDUCT

### 3.1 Background

- (a) The Code of Conduct incorporates the provisions of *paragraph 2.1 of the Green Book (National Agreement on Pay and Conditions of Service, NJC for Local Government Services)* which states:

*"Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained."*

Similar provisions are incorporated in the national conditions of service of Chief Executives and Chief Officers (being the Assistant Chief Executive, Directors and Deputy Directors).

### 3.2 Expected Standard

**Employees are expected to give the highest possible standard of service to the public, to provide appropriate advice to Councillors and fellow employees with impartiality, and to promote and assist in the maintenance and development of the Council's services in the most efficient and economical manner and in accordance with the Authority's stated policies and procedures.**

### **3.3 How To Comply With The Standard**

- (a) You are expected to conduct yourself at all times in a manner consistent with your employment status. As a representative of local government in general and the Council in particular, you should be constantly mindful of a requirement of integrity, honesty and impartiality in your dealings with Councillors, the public, and fellow employees.
- (b) Officers can brief Councillors in accordance with the Member/Officer Protocol but must not provide political advice.
- (c) You are advised that personal conduct outside office hours which could conceivably be regarded as undermining your ability to carry out your duties may lead to the Authority seriously considering your suitability as an employee.
- (d) You are expected to report any issues which contravene this Code of Conduct, in accordance with the Council's [Raising Concerns \(formerly "Whistleblowing"\) Policy](#). If an employee wishes to approach someone who is not a Council Officer, they should be offered the choice of their Local Councillor or the Independent Person from the Standards Committee.

## **4 POLITICAL CONSIDERATIONS**

### **4.1 Political Neutrality**

#### **4.1.1 Background**

- (a) Employees are employed to serve the Council as a whole and to carry out the work of the Council's Cabinet, Overview and Scrutiny meetings and other Committees through the direction of line management.
- (b) No Councillor acting individually has the power to instruct an employee to take an action. Councillors can instruct action only through the consent of the Council, the Cabinet or Regulatory Committee.
- (c) Employees, other than Directors or Deputy Directors, may not act on a Councillor decision unless instructed, or given delegated authority to do so by the Chief Executive or Director.
- (d) Employees must abide by the policies of the Council and must not allow their own personal or political opinions to interfere with their work or to bias their approach to dealings with any individual Councillor, of whatever party.

- (e) Councillors of one Party have no more rights than Councillors of another Party. Councillors who hold formal positions within the Cabinet or as Overview and Scrutiny or Committee Chairs may need to be briefed on issues relevant to their roles as Chair of meetings.
- (f) Employees will not be required to advise political groups and should not do so unless specifically required to do so by the Chief Executive.
- (g) Employees must always treat Councillors with due respect as the directly elected representatives of the community, and our employers.

#### 4.1.2 Standard

***Employees serve the Authority as a whole.***

#### 4.1.3 How To Comply With The Standard

- (a) Services should only act on decisions made by the Council, the Cabinet or Regulatory Committees convened and minuted by the Chief Executive or by an Officer authorised to act on behalf of the Chief Executive, and should not act on the instruction of a Councillor acting individually.
- (b) You should only act on decisions under the direction or instruction of your Director or the Chief Executive, and not that of individual Councillors.
- (c) If you are in any doubt as to the legitimacy of a decision of a Councillor meeting, you should seek the advice of Democratic Services, Financial Services or Legal Services before acting on that decision.
- (d) Do not allow your own personal or political opinions to interfere with your work, or to bias your approach to dealings with any Councillor, of whatever party.
- (e) Officers should not challenge the Council as an employer by writing to the media.
- (f) Officers must not give political advice.
- (a) You should not advise political groups unless specifically required to do so by the Chief Executive, or by an Officer authorised to act on behalf of the Chief Executive.

## 4.2 Politically Restricted Posts

### 4.2.1 Background

- (a) The *Local Government and Housing Act 1989, Part 1* contains provisions to prevent 'twin-tracking' (where a senior local authority employee is also an elected Councillor of another local authority), and to restrict the political activity of senior employees. Local authority employees holding politically restricted posts are: disqualified from membership of any local authority other than a parish or community council (s1(1)); disqualified from being an MP or MEP; and subject to prescribed restrictions on their political activity (s1(5 & 6)).

- (b) Details of the definitions of posts carrying political restriction, and the substance of the restrictions are held by the Chief Executive, along with a list of current designated posts.
- (c) The political restrictions are deemed to be incorporated in the contract of employment of every local authority employee who holds a politically restricted post.

#### 4.2.2 Expected Standard

***Employees in Politically Restricted Posts should be fully aware of, and act in accordance with legally prescribed restrictions on their activity.***

#### 4.2.3 How To Comply With The Standard

- (a) If your post is covered by the regulations, you should ensure that you are familiar with, and understand, the restrictions, and comply with them at all times. If you are in any doubt about any issue, you should contact Governance.

### 4.3 Relationships

#### 4.3.1 Background

- (a) Mutual respect between Councillors and Officers is essential to good local government.
- (b) Councillors and Officers are all servants of the public, and their respective roles depend heavily on the others. Their responsibilities are, however, distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council, their job being to give advice to the Council, and to carry out the Council's work under the direction and control of the Council, its Cabinet and Committees.
- (c) Officers should be familiar with, and have regard at all times to the guidance provided in the Council's Officer/Member Protocol.

#### 4.3.2 Expected Standard

***The roles and responsibilities of Councillors and Officers are distinct but heavily interdependent. Employees should aim to ensure that mutual trust and respect is maintained and developed.***

#### 4.3.3 How To Comply With The Standard

- (a) You should be constantly aware of the importance of maintaining good relationships with Councillors, and especially the need for mutual respect and trust. You should

therefore avoid anything which could compromise the relationship, and/or lead others to suspect that either party could unduly benefit from the relationship

- (b) You must always respect Councillors and in all dealings, address them in an appropriate manner.
- (c) You should be familiar with and must pay regard to the guidance set out in the Member/Officer Protocol.

## 5 DISCLOSURE AND CONFIDENTIALITY OF INFORMATION

### 5.1 Background

- (a) The Council is required by law to make certain types of information available to Councillors, auditors, government departments, service users and the general public. It can also declare other types of information as being 'open'. Employees should be aware of the types of information which are, and are not open, and act accordingly in handling that information. Employees may, for example have a legal or professional duty to disclose information to a third party in the course of legal proceedings.
- (b) Legislation and Regulations relevant to the disclosure and confidentiality of information are outlined in the Appendix to the Access to Information Rules contained in the Council's Constitution.
- (c) The Council has issued a statement of Data Protection Policy which constitutes a part of employees' terms and conditions of service. Further information and advice on responsibilities under the Act are available from the Information Management Officer in Governance, as the Council's Data Protection Officer.

### 5.2 Expected Standard

***Employees should ensure that information is used only for lawful and properly authorised purposes.***

### 5.3 How To Comply With The Standard

- (a) You should not use any information obtained in the course of your work for personal gain or benefit, nor should you pass it on to others who might use it in such a way. If you receive specific information, from whatever source, in the course of carrying out your duty, you should not divulge it, except where such disclosure is required or sanctioned by the law.
- (b) You should not disclose, without express permission, information relating to exempt agenda items and reports. No reports relating to staffing, financial, commercial, disciplinary, political or other confidential matters should be disclosed to any unauthorised person without the prior express permission of the Council, or the Chief Executive.
- (c) You should be aware of the Council's guidelines on dealing with the press and media, and should not normally make statements to the press or media. Councillors,

Directors and the Communications Officer and certain specifically nominated Officers are authorised to make statements on behalf of the Authority.

- (d) You should be aware that in the course of your work, you may have access to personal or otherwise confidential information, some of which may fall within the scope of the Data Protection Act. The Council expects you to respect the confidentiality of all information, both during and subsequent to a period of employment with the Council, in accordance with its statement of Data Protection Policy.
- (e) The leaking of confidential or exempt information to a third party may be viewed as a disciplinary matter.

## 6 PERSONAL INTERESTS AND PERSONAL RELATIONSHIPS

### 6.1 Background

The Council wishes to ensure that its employees are treated equitably, are protected against any unfounded allegations of impropriety and are able to act without discrimination of any kind in the conduct of their duties. It is important, therefore that there is an openness in the declaration of all interests that could have an influence on an employee's conduct and/or decision making and that public confidence in Council Officers is maintained.

### 6.2 Expected Standard:

***In order that all employees are able to act with impartiality in the conduct of their official business, there should be openness in the declaration of all personal interests and personal relationships which could, or be perceived to, influence their conduct.***

### 6.3 How To Comply With The Standard

#### 6.3.1 Personal Interests

- (a) A central confidential register of declared interests will be maintained by the Director of Corporate Services which will be accessible only by the Chief Executive, Directors and Deputy Directors, the Monitoring Officer and their Deputy and the Internal Audit Manager, all of whom may advise employees on questions of conflicts of interest, and on their inclusion or exclusion from the register (subject to the requirements of the Freedom of Information Act and Environmental Information Regulations).
- (b) Not all employees are required to complete written declarations for inclusion in the register. Only the following declarations will be required from employees:
  - (i) Those made on a permanent basis by employees included on the Council's list of Politically Restricted posts (PRPs) (see paragraph (c) below)
  - (ii) Those on a voluntary basis by any other employee (see paragraph (c) below)
  - (iii) Those made by any employee at the point of a potential conflict of interest (see paragraph (d) below).
- (c) All holders of Politically Restricted posts are required to make a written declaration for inclusion in the register referred to in paragraph (b) above of any personal interests, whether financial or otherwise, which could conceivably conflict with the



Authority's interests. Other employees may make similar declarations on a voluntary basis for inclusion in the register. For those who wish to do so, a form will be provided by Democratic Services for such declarations.

- (d) Any employee whether they are on the list of PRPs or not who, in the course of Council duties, deals with or is involved in a matter in which the employee has a personal interest, is required to declare that interest to their Director (Directors to the Chief Executive) before dealing with the matter or participating in any discussion, advice or decision on the matter. The employee should at the same time complete a form provided by Democratic Services, which will be kept in the confidential register referred to in paragraph (b) above. The employee will then take no further part in that matter. In formal meetings, the employee should inform the Chair of the meeting, the senior Officer present, and the Officer minuting the meeting, and if they feel it appropriate, the Officer should leave the room and take no further part in the matter.
- (e) for the purposes of paragraphs (c) and (d) above, personal interests include:-
- any interest in property within the Council's area,
  - any outside employment;
  - any financial interests in outside bodies and businesses within the Council's area;
  - membership of any charity or body directed to charitable purposes;
  - any body whose principal purposes include the influence of public opinion or policy;
  - membership of any organisation where a candidate for membership can be vetoed by existing Councillors or by a selection committee.

These could include, for example: involvement with an organisation receiving grant aid from the Council, or involvement with a pressure group which may seek to influence the Authority's policies. For the purposes of paragraph (d) above, an Officer should be mindful that a personal interest may include the interest of a close family member or friend, and that the public perception of propriety must be overriding.

- (f) Any changes to the declarations held in the central register must be notified to the Head of Governance within 28 days of the change.

### **6.3.2. Personal Relationships**

Any employee should tell the Chief Executive or the Monitoring Officer about any close personal relationship with a family member, partner, spouse or other continuing close relationship that goes beyond that of a simple friendship which might be expected to exist between work colleagues should such a relationship lead to an actual or potential conflict of interest. The information provided will be treated in the strictest confidence and will be available only to managers who comprise the line management chain relating to the employee's post and that of the colleague with whom the close personal relationship exists. It is the employee's responsibility to advise their line manager of any continuing close personal relationship with a colleague only where this may lead to a conflict of interest or the perception of such a conflict on the part of your colleagues, your employer, or a member of the public.

## **7 OUTSIDE COMMITMENTS**

### **7.1 Background**

- (a) Officers on or above SCP 28 are required by their contract of employment to devote their whole-time service to the work of their council and not to engage in any other business or take up any other additional appointment without the express consent of the Council.
- (b) For other Officers, the Council does not seek to restrict employees undertaking additional employment, but stresses to employees of all grades that they should not undertake outside work if:
- ◆ their official duties overlap in some way with their proposed work;
  - ◆ it causes a conflict of interest; or
  - ◆ it makes use of material to which the employee has access by virtue of his/her position (for example an architect or planner who draws up plans within the Authority on behalf of an applicant for planning consent).
- (c) It is irrelevant whether or not the work is paid. Employees' attention is drawn to the National Conditions of Service, which state that an Officer's off-duty hours are his personal concern, but he/she should not subordinate his duty to his/her private interests to put him/her in a position where his duty and his/her private interests conflict. The employing authority should not attempt to preclude Officers from undertaking additional employment, but any such employment must not, in the view of the authority, conflict with or react detrimentally to the authority's interests, or in any way weaken public confidence in the conduct of the authority's business.
- (d) These provisions are applicable to all employees.

## 7.2 Expected Standard:

***Employees should not undertake outside work where there is, or could be construed to be, a conflict of interest with their official duties***

## 7.3 How To Comply With The Standard

- (a) If you are employed at or above the grade of SCP 28, or its equivalent, you should gain the permission of your Director in writing, before undertaking any outside work, paid or unpaid, see 7.1 above
- (b) Directors/Deputy Directors should obtain permission in writing from the Chief Executive before undertaking any outside work or interests.
- (c) If you are employed on a grade below SCP 28, you should gain permission from your Director for any outside interests or activities where there could be any suggestion of that activity being in conflict with your work with the Council, or where those activities might otherwise come into conflict with other areas of Council business.
- (d) You are not allowed to undertake outside work of any sort in Council premises, and the use of Council facilities for such work is forbidden (this includes for example: telephones; typing services; and computing facilities). You are also instructed that correspondence and incoming telephone calls related to outside work are not permitted.

- (e) You are, by agreement with your Director, permitted to use photocopying and printing facilities for personal purposes, subject to the payment of a suitable fee. You must only undertake private printing by means of the central printing section, and pay for the work. Conditions relating to private use of the Internet are contained within the Council's Internet and E-mail Usage Policy. You should declare any outside interest for which these facilities are used as provided for in the rest of this section.
- (f) If you have any doubts at all about these requirements and how they might affect you, you should seek advice from your Director or the Chief Executive.

## **8 GIFTS AND HOSPITALITY**

### **8.1 Background**

- (a) From time to time, employees are faced with the difficulty of deciding whether or not to accept hospitality or gifts which arise during the conduct of business activities. Whilst it is impossible to cover every set of circumstances, the following guidelines should provide a basis for making a decision in the majority of cases.
- (b) Officers should generally exercise great care and caution in giving or accepting any form of gift or hospitality which could in any way be connected with the conduct of their duties. On all occasions, both the extent and circumstances of the offer should be considered. It should be remembered that the service, resources and opportunities you 'control' when working for the Council are not yours but the whole community's resources which they are entrusting to you to use and distribute fairly. The acceptance of personal favours cannot be returned and should therefore be avoided.
- (c) Hospitality extended by employees should be justifiable as being in the public interest, and should be on a scale appropriate to the occasion.
- (d) Employees should always refuse offers of gifts or hospitality where there could conceivably be a suggestion of improper influence, or where it not is on a scale appropriate to the circumstances. Particular caution is necessary where the offer comes from a person or organisation having or seeking to establish dealings with the Authority, and/or when a gift or hospitality is offered to an individual rather than a group of Officers.
- (e) Employees will be entitled to take advantage of any City Council services offered to them at a reduced rate, as determined by the Chief Executive.

### **8.2 Expected Standard**

***Employees should exercise great care in giving or accepting any form of gift or hospitality in order to avoid any possible suggestion, however unfounded, of improper influence.***

### **8.3 How To Comply With The Standard**

#### **8.3.1 Acceptable and Unacceptable Gifts**

- (a) You may regard the following gifts, under normal circumstances, as acceptable:
- Gifts of a promotional nature, of the sort given to a wide range of people, and not offered uniquely to a particular Officer. These will typically be gifts of a low intrinsic value, including, for example; calendars, pens, diaries and other minor items of office equipment.
  - Gifts generally distributed at the end of a demonstration, promotion or presentation, or at the conclusion of a courtesy visit. Again these are normally of low value and made generally available to all those attending.
  - Participation in, or attendance at subsidised City Council services, activities or events provided with the approval of the Chief Executive.
- (b) You should regard the following as unacceptable:
- Any gift which may be deliberately and directly linked to the performance of your official duties, or those of employees for whom you are responsible.
  - Any gift which might be interpreted as having been offered in order to influence your conduct, or which may be interpreted as potentially influencing your conduct.
  - Any gift offered under such circumstances that acceptance may compromise your position.

### **8.3.2 Procedure for Dealing With Gifts**

- (a) If you are offered, or receive a gift, you should immediately report the matter to your Director (Directors should inform the Chief Executive). With the exception of gifts clearly falling into the categories described in paragraph 8.3.1(a), your Director should ensure that the details are recorded in the register of gifts maintained by the Director of Corporate Services, which should include:
- details of who offered or presented the gift;
  - who received the gift;
  - a brief description of the gift and estimated value if possible;
  - details of whether the gift was accepted, returned or disposed of in some other way.
- (b) Should there be any doubt as to the acceptability of a gift, you or your Director should seek the advice of the Chief Executive, or alternatively the Monitoring Officer.
- (c) You should politely decline any gifts which are unacceptable, and explain the reason to the person making the offer. If it is clear to you that a deliberate attempt has or is being made to influence your conduct, you and/or your Chief Officer should report the matter to the Monitoring Officer or the Internal Audit Manager.
- (d) If it is impossible or impractical to return a gift which is considered unacceptable, then it is recommended that you donate it to an appropriate charity. Again, you should politely inform the organisation sending the gift of the action that has been taken.

### **8.3.3 Provision of Gifts by Officers**

- (a) You should not issue gifts to outside contractors, suppliers, or would-be customers. Similarly, you are not permitted to offer confidential information, or promises of preferential treatment as an inducement to trade.
- (b) The distribution of small promotional items is acceptable providing that you make the items generally available to all would-be customers or contractors.
- (c) You should never put yourself in a position where an allegation could be made that you have made unfair or unauthorised inducements to current or prospective customers or contractors in order to secure trade or contracts.

#### **8.3.4 Acceptance of Hospitality**

- (a) As with gifts, it is impossible to establish a conclusive list of what is, and is not acceptable in every situation. You must clearly exercise caution whenever you are offered hospitality by a person or body having or seeking business, contracts or a decision from the Council, particularly where the offer is made to you individually.
- (b) Generally, it is more acceptable for you to join in hospitality widely offered to a number of clients or would-be clients, than to accept offers of hospitality made solely to you or a group of Officers of the Council. Accepting personal hospitality or favours can place you in a difficult position, and you are not able or authorised to return them.

#### **8.3.5 Acceptable and Unacceptable Hospitality**

- (a) You may regard the following as examples of acceptable hospitality:
  - An invitation to a function where you are representing the Council (for example as a speaker, or to perform an opening ceremony), or to functions attended by virtue of your status or position in the Authority.
  - Offers of hospitality by other non-commercial bodies.
  - Working lunches provided to enable you to continue discussions with other parties.
  - Meals or other hospitality at conferences and exhibitions where the hospitality is offered or provided to a wide range of clients. This would include similar hospitality offered to you when in the company of Councillors.
- (b) You should regard the following as examples of unacceptable hospitality:
  - Holidays, weekend breaks.
  - Free access to facilities, for example the payment of golf club subscriptions, membership of health, fitness or social clubs.
  - Personal use of company flats or offers of hotel accommodation.
  - ALL offers of hospitality where you feel that there may be an attempt to exert improper influence on your professional conduct.
- (c) The following are examples of hospitality which you should only accept with the Chief Executive's permission, after consideration of all the circumstances.

- Invitations to sporting or entertainment events whether or not accompanied by the person offering the hospitality. This would include, for example, hospitality provided in reserved boxes at race meetings, football or cricket matches, etc. If you attend any such events, this must be in your own time, by taking annual leave if necessary.
  - Tickets to events such as theatres, cabarets, sportsmen's evenings, and sporting events, especially those unconnected with the local community.
  - Personal invitations to occasions with representatives of persons or bodies having dealings with the Council, especially whilst the Council is actively reviewing business which might include that organisation's interests.
- (d) Circumstances at the time are likely to have a considerable influence on whether you should regard an offer as acceptable or not. It may be particularly ill advised for Officers to be seen to attend an event organised by a particular company at a time when that company is attempting to secure a contract with the Council, even when, under other circumstances, the offer might be deemed to be acceptable. You should exercise equal caution when dealing with persons or organisations already under contract to, or having business with the Council.

### **8.3.6 Procedures for Dealing with Offers of Hospitality**

- (a) With the exception of hospitality clearly falling into the categories listed in paragraph 8.3.5(a), you should immediately report any offer of hospitality to your Director (Directors should report to the Chief Executive). The Director of Corporate Services will maintain a register recording offers in the same manner as that for recording details of gifts (paragraph 8.3.2(a) refers).
- (b) Initially, Directors should exercise their judgement in deciding whether or not the offer of hospitality should be accepted. In case of uncertainty, the advice of the Chief Executive or the Monitoring Officer should be sought.

### **8.3.7 Provision of Hospitality by Officers of the Council**

- (a) Modest hospitality is recognised as an accepted courtesy of business relationships, and is an important aspect of customer care and image projection. You must, however, ensure that the level of hospitality offered is reasonable, appropriate to the circumstances, and can be fully justified.

## **9 SPONSORSHIP – GIVING AND RECEIVING**

### **9.1 Background**

- (a) Where an outside organisation wishes to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts and hospitality will apply. Particular care must be taken when dealing with existing or potential contractors.
- (b) Where the Authority wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative should benefit from such sponsorship, grant aid, financial or other means.

## 9.2 Expected Standard

***Employees should ensure that, in the offering, or securing, of sponsorship, every effort is made to avoid conflict of interest or any possible suggestion of improper influence, however unfounded.***

## 9.3 How To Comply With The Standard

- (a) In all dealings with persons or bodies offering (or being offered) sponsorship, you should ensure that impartial advice is given, and that there is no conflict of interest involved.
- (b) If you have dealings with organisations offering sponsorship to the Council, you should report the matter to your Director (Directors should inform the Chief Executive). Directors should ensure that they are recorded in the register of sponsorship maintained by the Director of Corporate Services, which should include:
  - details of who offered the sponsorship;
  - the service or event being sponsored;
  - a brief description of the sponsorship, and estimated value if possible;
  - details of whether the offer was accepted or not;
  - authorisation of the action taken (including the reasons) by the Director or his/her authorised deputy.
- (c) Should there be any doubt as to the acceptability of an offer of sponsorship, the advice of your Director or the Chief Executive, or alternatively the Monitoring Officer should be sought.
- (d) If the Authority is proposing to sponsor an event or service, you should ensure that neither you, nor your partner, spouse, or any relative should benefit from it in any way. You are required to report any potential benefit of this sort immediately to your Director (Directors should report to the Chief Executive) and to have it entered in the register of interests maintained by the Director of Corporate Services.

## 10 USE OF FINANCIAL RESOURCES

### 10.1 Background

- (a) Sound financial management covers all aspects of the Council's work so as to:
  - safeguard its assets
  - promote operational efficiency in accordance with policies and directives
  - protect employees at all levels

### 10.2 Expected Standard

***Employees must strive to ensure that they use public funds entrusted to them in a responsible and lawful manner, and seek to secure value for money in the provision of their services.***

### 10.3 How To Comply With The Standard

- (a) You are expected to ensure that public funds entrusted to you are used in a responsible and lawful manner. You should strive to ensure value for money to the local community and to avoid any prospect of legal challenge to the Authority. You should therefore be aware of the Council's Financial Regulations and Financial Procedures, which define the rules for sound financial management. These are available from Directors and the Chief Executive. You should also be familiar with all relevant sections of the more detailed corporate guidance on financial procedures, and also with any of your Service's own specific procedures and regulations. Information regarding the corporate guidance on financial procedures is available from Directors or the Chief Executive, or alternatively from Internal Audit.

## 11 THE SELECTION OF DEVELOPERS, CONSULTANTS OR CONTRACTORS

### 11.1 Expected Standard

***Employees involved in the selection of developers, consultants, contractors or suppliers should ensure that their actions are undertaken with openness and within the limits of authority delegated to them.***

### 11.2 How To Comply With The Standard

- (a) If you are involved in the selection of developers, consultants, contractors or suppliers, you must adhere to the Council's stated procedures. You should therefore be familiar with the rules set out in Financial Regulations, Financial Procedures and Contract Procedure Rules; be familiar with your own Service's procedures; and be aware of the limits of any authority delegated to you. In particular, you should be aware of Contract Procedure Rules, corporate guidance on Contract and Project Management, and of the relevant Financial Regulations and procedure Rules which deal with budgetary control and authority to incur expenditure.
- (b) If you are involved in these arrangements and have any form of pecuniary, financial or personal interest or involvement with any contract or supply, you must declare that interest immediately to your Director (Directors report to the Chief Executive).

## 12 SEPARATION OF ROLES DURING TENDERING

### 12.1 Expected Standard

***Employees involved in tendering processes should be clear as to their role, and act with openness in order to ensure the fair and impartial treatment of all interested parties.***

### 12.2 How To Comply With The Standard



- (a) If you are involved in tendering processes, and in dealing with contractors, you should be familiar with the requirements of the Council's Standing Orders and Financial Regulations, and clear on the separation of client and contractor roles within the Authority.
- (b) As an employee in either a contractor or a client unit, you must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- (c) Should you have access to confidential information on tenders or costs for either internal or external contractors, you should not disclose that information to any unauthorised person or organisation.
- (d) If you have a direct connection with any company, contractor or tenderer, either personally or through any immediate relative or close personal friend, you should disclose this to your Directors (Directors report to the Chief Executive) and have it entered in the register of interests maintained by the Director of Corporate Services before you become involved in the tendering or contract process.

### 13. APPOINTMENTS AND OTHER EMPLOYMENT MATTERS

#### 13.1 Background

- (a) Section 7 of the Local Government and Housing Act 1989 requires all local authority appointments to be made on the basis of merit. It is therefore essential that employees make appointments based solely on the ability of the candidate to undertake the duties of the post. The Council's established Recruitment and Selection Procedures are designed to assist employees and Councillors in fulfilling this responsibility, and should be closely adhered to. Further advice on the application of these procedures should be sought from Human Resources.
- (b) Employees involved in making appointments will be expected to be aware of, and comply with the following:
  - The National Conditions of Service, which provide that every Councillor and senior Officer of the Council shall notify to the Chief Executive any relationship known to him to exist between himself and a candidate for an appointment of which he or she is aware. It shall be the duty of the Chief Executive to the authority to report to the authority or appropriate committee any such disclosure made to him.

**Note:** 'Senior Officer' refers to an Officer paid at Senior Officer grade or above.
  - The statutory requirement to appoint on the basis of merit.
  - The Council's Equal Opportunities in Employment Policy.
- (c) Officers and Councillors are not allowed to canvass for a particular candidate to be appointed. It is, however, in order for Officers and Councillors to provide references.

#### 13.2 Expected Standard

***Employees involved in making appointments should ensure that they are made solely on the basis of merit, and free from any possible allegation of discrimination, however unfounded.***

### **13.3 How To Comply With The Standard**

- (a) You are expected to ensure that appointments are made solely on the basis of merit. In any involvement with appointments, you should therefore follow the Council's established Recruitment and Selection Procedures which are designed to assist in fulfilling this responsibility.
- (b) If any attempt is made to canvass you, by an Officer or a Councillor, you must report the matter immediately to your Director (Directors report to the Chief Executive).
- (c) To avoid any possible accusation of bias, you should not be involved in any appointment where you are related to, or have a close personal relationship outside work with, an applicant.
- (d) Senior Officers are expected to notify their Director (Directors should notify the Chief Executive) of any relationship with a candidate for any appointment.
- (e) You should not be involved in decisions relating to discipline, promotion, or pay adjustments for any employee who is a relative or partner, or with whom you have a close personal relationship outside work.

## **Part 4 - Section 2**

### **Councillors' Code of Conduct**

#### **PREAMBLE TO THE CODE OF CONDUCT**

This Preamble provides an explanatory introduction to the Councillors' Code of Conduct. It does not form part of the Code of Conduct, and in the event of any conflict between the Preamble and the Code, the Code shall take precedence.

#### **Introduction**

The City Council has adopted the following code dealing with the conduct that is expected of Councillors and co-opted members of the Authority when they are acting in that capacity, as required by section 27 of the Localism Act 2011 ("the Act").

The Council has a statutory duty under the Act to promote and maintain high standards of conduct by Councillors, and the Code sets out the standards that the Council expects Councillors to observe.

The Code is not intended to be an exhaustive list of all the obligations that are placed on Councillors. It is the responsibility of individual Councillors to comply with the provisions of the Code and the Protocols contained in the Council's Constitution, as well as such other legal obligations as may apply to them from time to time. Failure to do so may result in a sanction being applied by the Council. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and/or disqualification from office for a period of up to 5 years.

Councillors have a responsibility to ensure that they comply with the Code of Conduct in all respects. They should regularly review their personal circumstances and intended actions in the context of the Code.

If in doubt, Councillors should seek advice from the Monitoring Officer or Deputy Monitoring Officer, but the final decision and responsibility on how to act rests with Councillors themselves.

Councillors should not do anything in their capacity as councillors, which they could not justify to the public or could not justify by law. Councillors' conduct and what the public believe about their conduct will affect the reputation and credibility of Councillors and the Council as a whole.

It is not enough to avoid impropriety; perception is also important. Councillors should at all times avoid any occasion for suspicion and any appearance of improper conduct.

## **SEVEN GENERAL PRINCIPLES OF CONDUCT**

The Code is intended to be consistent with the following seven principles, as required by the Act.

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

### **Accountability**

Holders of public office are accountable to the public for their decisions and actions to the public and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## CODE OF CONDUCT

### Part A General provisions

#### Introduction and interpretation

1. — (1) This Code applies to **you** as a member of the Council
- (2) It is your responsibility to comply with the provisions of this Code.
- (3) In this Code—

"meeting" means any meeting of—

- (a) the authority;
- (b) the Cabinet of the authority;
- (c) any of the authority's or its Cabinet committees, sub-committees, Joint Committees, joint sub-committees, or area committees;

"member" includes a co-opted member and an appointed Councillor.

#### Scope

2. —(1) Subject to sub-paragraph (2) you must comply with this Code whenever you—
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority, and references to your official capacity are construed accordingly.
- (2) This Code does not have effect in relation to your conduct other than where it is in your official capacity.

#### General obligations

3. (1) You must treat others with respect.
- (2) You must not—
  - (a) do anything which may cause your authority to breach the Equality Act 2010 (or subsequent legislation)
  - (b) bully<sup>10</sup> any person;

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<sup>10</sup> Bullying definition: "Offensive, intimidating, malicious or insulting behaviour, abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient". Examples of bullying include but are not limited to:

- Spreading malicious rumours;
- Unfair treatment;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a Councillor (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

3(2) The Chief Executive or the Monitoring Officer should be advised about any close personal relationship with an Officer or a close family member of an Officer, that goes beyond that of a simple friendship which might be expected to exist between colleagues, should such a relationship lead to an actual or potential conflict of interest.

4. You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the Council; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing the Council or the office of councillor into disrepute.

6. You must:

(a) champion the needs of residents- the whole community and in a special way your constituents, including those who did not vote for you - and put their interests first, and

- 
- Picking on someone

(b) deal with representations or inquiries from residents and visitors, fairly, appropriately and impartially

**7. You—**

(a) must not use or attempt to use your position as a Councillor improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of the Council—

(i) act in accordance with the Council's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

**8. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—**

(a) the Council's Chief Finance Officer; or

(b) the Council's Monitoring Officer,

where that Officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

## **Part B Interests**

### **Section 1 Personal Relationships**

Any employee should tell the Chief Executive or the Monitoring Officer about any close personal relationship with a family member, partner, spouse or other continuing close relationship that goes beyond that of a simple friendship which might be expected to exist between work colleagues should such a relationship lead to an actual or potential conflict of interest.

The information provided will be treated in the strictest confidence and will be available only to managers who comprise the line management chain relating to the employee's post and that of the colleague with whom the close personal relationship exists.

It is the employee's responsibility to advise their line manager of any continuing close personal relationship with a colleague only where this may lead to a conflict of interest or the perception of such a conflict on the part of your colleagues, your employer, or a member of the public.

### **Section 2 Disclosable Pecuniary Interests**

This part explains the statutory requirements of the Localism Act 2011 (Sections 29-34) in relation to disclosable pecuniary interests. These are enforced by criminal sanction.

#### **1. Notification of disclosable pecuniary interests**

Within 28 days of becoming a Councillor or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'disclosable pecuniary interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) of the following descriptions:

- (a) Details of any employment, office, trade, profession or vocation carried on for profit or gain
- (b) Details of any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (c) Details of any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority under which goods or services are to be provided or works are to be executed; and which has not been fully discharged.
- (d) Details of any beneficial interest in land which is within the area of the relevant authority.
- (e) Details of any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
- (f) Details of any tenancy where (to your knowledge) the landlord is the relevant authority; and the tenant is a body in which the relevant person has a beneficial interest.



- (g) Details of any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or if that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For the purposes of the foregoing “relevant authority” means the City Council; “relevant period” means the period of 12 months ending with the day on which you notify the Monitoring Officer of your disclosable pecuniary interest, and “relevant person” means you or your spouse or partner as defined above.

## **2. Register of interests**

Any interests notified to the Monitoring Officer will be included in the register of interests.

A copy of the register will be available for public inspection and will be published on the Council’s website.

## **3. Sensitive interests**

Where you consider that disclosure of the details of a disclosable pecuniary interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a disclosable pecuniary interest, the details of which are withheld under Section 32(2) of the Localism Act 2011.

## **4. Non participation in case of disclosable pecuniary interest**

- a) If you are present at a meeting of the Council, Cabinet, or any committee, sub-committee, Joint Committee or joint sub-committee of the authority, and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting:
- You may not participate in any discussion of the matter at the meeting.
  - You may not participate in any vote taken on the matter at the meeting.
  - If the interest is not registered, you must disclose the interest to the meeting.
  - If the interest is not registered and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days.

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

- b) Where a Cabinet member may discharge a function alone and becomes aware of a disclosable pecuniary interest in a matter being dealt with or to be dealt with by her/him, the Cabinet member must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter.

## **5. Dispensations**

The Monitoring Officer may authorise the granting of dispensations pursuant to section 33 of the Localism Act 2011.

## **6. Offences**

It is a criminal offence to

- Fail to notify the Monitoring Officer within 28 days of election of any disclosable pecuniary interest
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As a Cabinet member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, fail to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

## **7. Notification of changes**

Whilst not a requirement of the statute, the Council under this Code of Conduct requires you to notify the Monitoring Officer within 28 days of any new disclosable pecuniary interest, or any change to a disclosable pecuniary interest already notified/registered.

## **Section 2 Other Interests**

### **8. Notification of Other Interests**

- (1) In addition to the foregoing, you must, within 28 days of this Code being adopted by or applied to your authority; or your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your interests within the following categories, for inclusion in the register of interests:
  - (a) Details of any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
  - (b) Details of any body exercising functions of a public nature, any body directed to charitable purposes or any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
  - (c) Details of any gift or hospitality with an estimated value of at least £50 that you have received in connection with your role as a Councillor, and details of the donor.
- (2) You must, within 28 days of becoming aware of any new interest or change to any interest registered under this paragraph notify the Monitoring Officer of the details of that new interest or change.

### **9. Disclosure of Other Interests**

- (1) Subject to sub-paragraphs (2) to (6), where you have an interest described in paragraph 8(1) above or in paragraph (2) below in any business of your authority, and where you are aware or ought reasonably to be aware of the existence of that interest, and you attend a meeting of your authority at which the business is considered, you must disclose to that

meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

- (2) You have an interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a member of your family or any person with whom you have a close association, to a greater extent than the majority of other council tax payers.
- (3) Where you have an interest in any business of the authority of the type mentioned in paragraph 8(1)(c), (gifts and hospitality) you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Where you have an interest by virtue of paragraph 8(1) but, by virtue of paragraph 11, sensitive information relating to it is not registered in the register of Councillors' interests, you must indicate to the meeting that you have an interest, but need not disclose the sensitive information to the meeting.
- (5) Where you have an interest in any business of your authority by virtue of paragraph 8(1) or 9(2), and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

#### **10. Register of interests**

- (1) Any interests notified to the Monitoring Officer under paragraph 8 above will be included in the register of interests.
- (2) A copy of the register will be available for public inspection and will be published on the authority's website.
- (3) Where a disclosable pecuniary interest is notified to the Monitoring Officer it need not be separately notified or separately registered as an interest under this section of the Code.

#### **11. Sensitive interests**

Where you consider that disclosure of the details of an interest could lead to you, or a person connected with you, being subject to violence or intimidation, and the Monitoring Officer agrees, if the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have an interest, the details of which are withheld.

#### **12. Non participation in case of certain other interests**

- (1) Subject to paragraphs (2) and (3) below, where you have an interest in any business of your authority by virtue of paragraph 8(1) or 9(2) **AND** the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgment of the public interest **AND** where that business—
  - (a) affects your financial position or the financial position of a person or body through whom the interest arises; or
  - (b) relates to the determining of any approval, consent, licence, permission or registration in relation to you or any person through whom the interest arises,

you may not participate in any discussion of the matter at the meeting, and you may not participate in any vote taken on the matter at the meeting.

In addition, the Council Procedure Rules require you to leave the room where the meeting is held while any discussion or voting takes place.

- (2) Where you have an interest in any business of your authority to which paragraph 12(1) applies, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise, and provided that you leave the room where the meeting is held immediately after making representations, answering questions or giving evidence.
- (3) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have an interest under paragraph 12(1) that relates to the functions of your authority in respect of—
- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) an allowance, payment or indemnity given to Councillors;
  - (iii) any ceremonial honour given to Councillors; and
  - (iv) setting council tax or a precept under the Local Government Finance Act 1992.
- (4) Where, as a Cabinet member, you may discharge a function alone, and you become aware of an interest under paragraph 12(1) in a matter being dealt with, or to be dealt with by you, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

# **PART 5**

## **Councillors' Allowances Scheme**

# **PART 6**

## **GLOSSARY OF TERMS**

## Part 6 Glossary of Terms

In this Constitution, unless the context otherwise demands, the following terms have the meaning assigned to them:

“**area forum**” – an advisory and consultative body that may be set up by the Council for part of the District which differs from any area committees that may be set up with Lancashire County Council;

“**authority**” – the Lancaster City Council acting by any means which the Council may lawfully adopt;

“**Budget and Performance Panel**” – an overview and scrutiny committee established by Full Council under Section 9F of the 2000 Act;

“**best consideration**” – the duty to obtain the best price in money or money’s worth for land and property disposed of by the Council where the disposal is freehold or leasehold with more than 7 years left to run;

“**best value**” – the duty to secure continuous improvement in the way in which the Council’s functions are exercised having regard to economy, efficiency and effectiveness under the Local Government Act 1999;

“**Cabinet**” – the executive decision-making body of the Council;

“**call-in**” – the consideration by the Overview and Scrutiny Committee of an executive decision made but not yet implemented, which may result in the recommendation that the decision be reconsidered by the person or persons who made that decision or that Full Council be recommended that that decision be reconsidered in accordance with Section 9F of the 2000 Act.

“**Chair**” – the person appointed to preside at any meeting, and in connection with a Council meeting, the Mayor, Deputy Mayor or other person appointed to preside;

“**Chief Executive**” – the Chief Executive for the time being or such person as he or she may appoint to represent him or her for the purpose of this Constitution;

“**Chief Finance Officer**” – the Officer appointed by the Council to have responsibility for the proper management of the Council’s financial affairs under Section 151 Local Government Act 1972 and the Local Government Finance Act 1988;

“**CIPFA**” – the Chartered Institute of Public Finance and Accountancy;

“**confidential**” – information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order, or by virtue of any enactment as defined in the Access to Information Rules in **Part 3 Section 4**;

“**Committee**” – a committee of the authority;

“**controllable expenditure**” – to be defined in relation to carry forward and virement arrangements making it clear that determination of what is controllable lies with the Chief Finance Officer;

“**Council**” – the Lancaster City Council;

“**Councillor Call for Action**” – the right under Section 9F Local Government Act 2000 to place an item on an agenda of an Overview and Scrutiny meeting to be discussed in accordance with Council rules and protocols;

**“day”** – a whole calendar working day, i.e. a full 24 hour day excluding Saturday, Sunday and bank and public holidays;

**“Deputy Mayor”** – the Vice Chair of the Council;

**“executive”** – in local government means the Council’s Cabinet or functions that are performed by the Leader or Cabinet or a committee of Cabinet or delegated to Officers;

**“exempt”** – information that is not available for disclosure to the public as defined by Schedule 12A of the 1972 Act and the Access to Information Rules in **Part 3 Section 4** of the Constitution;

**“group”** – two or more Councillors who notify the Head of Paid Service that they have formed a group;

**“group spokesperson”** – designated representative of a political group having two or more Councillors;

**“Head of Paid Service”** – the Chief Executive, who may report to Full Council on staffing requirements pursuant to Section 4 Local Government and Housing Act 1989;

**“Key Decision”** – a decision which, in relation to an executive function, has a significant effect on communities in two or more wards; and/or is over a financial threshold as defined in Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012/2089, as follows:

*A decision which is likely—*

*“(a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority’s budget for the service or function to which the decision relates; or*

*(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority. In determining the meaning of “significant” the local authority must have regard to any guidance for the time being issued by the Secretary of State in accordance with section 9Q of the Local Government Act 2000.”*

The Council has agreed the financial threshold will be £150,000 when executive decisions are taken by Directors; £200,000 when decisions are taken by the Chief Executive; £250,000 for a Cabinet member; and unlimited for the Leader or Cabinet;

**“Leader of a political group”** – the leader of a political group as defined in the Local Government (Committee etc.) Regulations 1990;

**“Leader of the Council”** – such person as the council shall elect to be Leader of the Council (and who is then able to appoint the Cabinet);

**“local choice functions”** – as defined by Regulation 3 and Schedule 2 to the Local Authority (Functions and Responsibilities)(England) Regulations 2000, where the Authority has a choice to decide which functions are to be the responsibility of Cabinet or the Council;

**“Mayor”** – the Chair of the Council and civic and ceremonial representative of the Council;

**“meeting”** – a meeting of the Council, Cabinet, a Committee, Overview and Scrutiny, Budget and Performance Panel, Task Group, Panel or Sub-Committee as the case may be;

**“member”** – in relation to the Council is a Councillor; and in relation to any other body means a person appointed as a member of that body, whether or not the person is entitled to vote;



**“Monitoring Officer”** – the Legal and Democratic Services Manager or, if he or she is unable to act owing to conflict, absence or illness, the person nominated as his or her deputy, who has a role in respect of legality and maladministration (complaints of injustice considered by the Ombudsman);

**“Mother/Father of the Council”** – the Councillor with the longest unbroken service with the Council will be appointed as the Mother/Father of the Council at the first meeting of Council following the post becoming vacant and the appointee will support the civic and ceremonial functions of the Council;

**“number of members”** – in relation to the Council, the number of persons who may act at the time in question as Councillors and in relation to any other body, the number of persons who may act at the time in question as voting members of that body;

**“Officer”** – an employee of the authority or the holder of a paid office under the authority other than the Mayor, Chair or Vice Chair and any local Officer of dignity appointed by the authority under powers conferred by a Royal Charter;

**“Overview and Scrutiny Committee”** – a Committee of the Council established in accordance with Section 9F of the 2000 Act, being the Overview and Scrutiny Committee and the Budget and Performance Panel;

**“person presiding”** – the person entitled, or appointed, to Chair and preside at any meeting;

**“political balance rules”** – as defined in the Local Government and Housing Act 1989 and Local Government (Committees and Political Groups) Regulations 1990/1553 which require the Council to allocate seats on committees in accordance with rules (broadly in line with proportional representation) – unless the body is an area committee, or no Councillor votes against;

**“political groups”** – a political group as defined in the Local Government (Committee etc.) Regulations 1990:

**“referendum”** – as defined in the Referendum Act 2000;

**“Regulatory Committee”** – a committee undertaking “quasi-judicial” functions of the Council (such as licensing and planning and highways);

**“SOLACE”** – the Society of local authority Chief Executives and Senior Managers;

**“Task Group”** – a time-limited working group established by the Overview and Scrutiny Committee in accordance with Overview and Scrutiny Procedure Rule 2;

**“the 1972 Act”** – the Local Government Act 1972;

**“the 1989 Act”** – the Local Government and Housing Act 1989;

**“the 2000 Act”** – the Local Government Act 2000;

**“Vice Chair”** – the person appointed to preside, in the absence of the Chair, at meetings of any properly constituted body - other than Council where it will be the Deputy Mayor.

N.B. Copies of Acts, Orders and Regulations are available at: [legislation.gov.uk](http://legislation.gov.uk)