LANCASTER
CITY COUNCIL

Promoting City, Coast & Countryside

LANCASTER CITY COUNCIL

CONSTITUTION V2.8

Version 1	6 May 2019
V1.2	30 May 2019
V1.2	October 2019
V1.3	September 2020
V1.4	June 2021
V1.5	July 2021
V1.6	August 2021
V1.7	June 2022
V1.8	October 2022
V1.9	January 2023
V2.0	May 2023
V2.1	15 June 2023
V2.2	23 June 2023
V2.3	March 2024
V2.4	May 2024
V2.5	June 2024
V2.6	July 2024
V2.7	February 2025
V2.8	April 2025

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PART 1

SECTION 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 this 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 Hyperlinks to other documents/sites are included where 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:

Part 1 is this summary and explanation.

Part 2 sets out which parts of the Council are responsible for carrying out the various functions of the Council.

Part 3 contains the various Procedure Rules which govern how the Council conducts its business, including how it makes decisions and how meetings are conducted.

Part 4 includes codes and protocols that govern how members of the Council (also known as "Councillors") and Officers of the Council must behave in performing their duties.

Part 5 is the Councillors Allowance Scheme, which sets the level of financial allowances which Councillors receive for performing their duties.

Part 6 is a Glossary which explains some of the terminology used in this document. Terms in the Glossary and Parts of the constitution are shown in **bold**.

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 61 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, contact information, 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:

(a) Collectively deciding the Council's Budget and Policy Framework and carrying out a number of other strategic functions;

(b) Initiating and scrutinising policy;

(c) Representing their communities and bringing their views into the Council's decision-making process, i.e. becoming the advocate of and for their communities;

(d) Contributing to the good governance of the area and encouraging community participation;

(e) Dealing with individual casework and acting as an advocate for constituents in resolving particular concerns or grievances;

(f) Balancing different interests identified within the Ward and representing the Ward and the Council as a whole;

(g) 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);

(h) Being involved in decision-making;

(i) Being available to represent the Council on other bodies; and

(j) 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. Councillors approve the Constitution, any significant amendments to the Constitution, and the Council's overall policies. Councillors set the budget each year. A range of Committees is 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 decisions and how they are made are set out in paragraphs 4 (Decision–Making and the Cabinet) and paragraphs 9 (Decision-Making) 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 the Council's **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 usually starting and ending at the Annual Council meeting. 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 Full Council 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 (executive decisions usually involving expenditure of over £250,000 by the Leader, Cabinet, or a Cabinet member and 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 and Budget and Performance Panel support the work of the Cabinet and the Council as a whole and may be supported by Task Groups. Any of these meetings may be referenced as Overview and Scrutiny meetings in this Constitution. 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, 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.

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 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.

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 civic and ceremonial role of the Mayor is non-political. The Mayor serves for a one-year term of office. He/she has the following roles and functions (which in his/her absence shall be carried out by the Deputy Mayor, or in the case of (b) only, below, the Assistant Deputy Mayor). The Mayor will:

(a) promote public involvement in the Council's activities;

(b) 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;

(c) 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;

(d) 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 Chairs to account;

(e) keep order at Council meetings and ensure that Councillor behaviour is of the highest standard and does not bring the Council into disrepute;

(f) exercise a second or casting vote in the event of a tie;

(g) uphold and promote the purposes of the Constitution, and, subject to the advice and guidance of the Chief Finance Officer or Monitoring Officer during Council meetings, interpret the Constitution as and when necessary;

(h) 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

(i) 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 paragraphs 7.5 to 7.7 below) who is 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, their 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.

7.9 The Assistant Deputy Mayor, if required, is selected by the Deputy 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. Citizens' Advice 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:

(a) vote at local elections if they are registered on the electoral roll;

(b) stand for election as a Councillor if they live or work in the Council's area;

(c) present petitions in accordance with the Council's Rules (including petitioning to request a referendum on an elected Mayoral form of executive);

(d) contact their local Councillors about any matters of concern to them relating to functions of the Council;

(e) attend surgeries held by Ward Councillors;

(f) 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 overall approach to the way services are delivered under the Council's **Best Value** duty. Usually there is also 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.

8.4 Members of the public can 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.

8.5 Members of the Public may 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 – Section 1** of this Constitution if prior notice is given;

(b) Addressing meetings of Cabinet under Rule 19 of **Part 3 – Section 2** of this Constitution if prior notice is given;

(c) In Planning Regulatory Committee in accordance with the Committee's rules on public speaking.

(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 Committee's rules on public speaking.

(e) Contributing to research or reviews undertaken by the Overview and Scrutiny Committee and Budget and Performance Panel;

(f) Where invited, participating in Advisory Group 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.

8.6 Anyone may make a complaint to:

(a) The Council (under the Council's Complaints Policy);

(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 (in **Part 5**) by a Councillor.

8.7 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. Further information about public participation, can be obtained from the Senior Manager, Democratic Support and Elections at Lancaster Town Hall or email 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 Officers, 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 The City Council supports transparency of decision-making in the public interest. 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, Councillor or decision-making body when the decision was made;

(e) details of any conflict of interest relating to the matter declared by any member of the decision-making body or by a Councillor who is consulted by the Officer or Councillor 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.

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 Council's structures and decision-making requirements;

(c) consequential amendments are made as a result of Council decisions; and

(d) any other required changes are made as appropriate.

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

10.4 The Monitoring Officer will inform all Councillors when changes are made to the Constitution.

10.5 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**.**

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

Parts of the Constitution	**Who has the power to amend**
Financial Procedure Rules in **Part 3**	Audit Committee
Contract Procedure Rules in **Part 3**	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 (which is the definitive version) or from Democratic Support, or by email to democracy@lancaster.gov.uk

PART 2

RESPONSIBILITY FOR FUNCTIONS

Officer Management Structure can be found online HERE (Scroll down the webpage)

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:

(a) Electing the Mayor and appointing the Deputy Mayor;

(b) Appointing the Assistant Deputy Mayor if required;

(c) Electing every two years the Leader of the Council;

(d) Appointing the Chair for each Council Committee;

(e) Appointing the **Father/Mother of the Council**;

(f) 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);

(g) 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;

(h) Adopting the Constitution and making significant changes to the Constitution;

(i) Approving and adopting the Budget and Policy Framework;

(j) 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**);

(k) Determining any matter which is referred to it for determination by a Committee or Sub-Committee;

(l) Adopting a Councillors' Allowances Scheme following a report from the Independent Remuneration Panel;

(m) Changing the name of the area, and conferring the title of Honorary Alderman or Freedom of the City (as an Honorary Freeman);

(n) Approving the Annual Pay Policy Statement;

(o) Exercising certain functions in relation to Parishes and Parish Councils, including making Orders pursuant to Community Governance Reviews;

(p) Making payments or providing other benefits in cases of maladministration under Section 92 of the Local Government Act 2000;

(q) 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;

(r) Appointing an Officer with responsibility for the proper administration of financial affairs under Section 151 of the Local Government Act 1972;

(s) Designating a post as the Monitoring Officer and providing staff under Section 5(1) of the Local Government and Housing Act 1989;

(t) Dismissing the Chief Executive, Monitoring Officer or Chief Finance Officer;

(u) 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;

(v) Exercising all functions relating to local government boundaries;

(w) Designating areas where public drinking may be restricted under the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007;

(x) Designating streets for street trading under the Local Government (Miscellaneous Provisions) Act 1982;

(y) Determining whether functions which are classified as “Local Choice” functions should be reserved to the Council or exercised by Cabinet;

(z) Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills; and

(aa) 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 Senior Manager, Democratic Support and Elections 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

Budget 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:

- Medium Term Financial Strategy;
- Treasury Management Framework (including relevant policies and strategies); and
- 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:

(a) The Council Plan;

(b) The Lancashire Crime and Disorder Reduction Strategy and Community Safety Agreement; supported by the Lancaster District Community Safety Partnership;

(c) The Local Development Plan and Development Plan Documents;

(d) The Statement of Licensing Policy;

(e) The Statement of Gambling Policy; and

(f) Any other plan or strategy (whether statutory or non-statutory) in respect of which the Council from time to time determines that the decision on its adoption or approvals should be taken by Full Council rather than the Cabinet.

Part 2 – Section 3

Local Choice Functions

3 Allocation of Local Choice Functions

3.1 Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the 2000 Regulations) makes provision for certain functions, 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:

Functions to be the responsibility of the Leader and Cabinet	**Further delegation**
The determination of an appeal against any decision made by or on behalf of the Cabinet	Chief Officers in accordance with Council procedures
Any function related to contaminated land that arises in connection with executive functions	Chief Officers
The discharge of any function relating to the control of pollution or the management of air quality	Chief Officer Environment and Place
The service of an abatement notice in respect of a statutory nuisance	Chief Officer Environment and Place
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area	None
The inspection of the Council's area to detect any statutory nuisance	Chief Officer Environment and Place
The investigation of any complaint as to the existence of a statutory nuisance	Chief Officer Environment and Place
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Chief Officers
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)	None
The making of agreements with other local authorities for the placing of staff at the disposal of those authorities	Chief Officers
Local Act functions other than a function specified or referred to in Regulation 2 or Schedule 1 to the 2000 Regulations other than any other function where the power relates to the granting of a consent, licence, permission registration or similar function.	Chief Officers
Functions to be the responsibility of the Council and its Committees	**Further delegation**
The determination of an appeal against any non-executive decision made by or on behalf of the Council	Chief Officers in accordance with Council procedures
Any function related to contaminated land that arises in connection with non-executive functions	Chief Officers
Obtaining information under section 330 of the Town and Country Planning Act 1990 as to interests in land	Chief Officers
The appointment of any individual to any office other than an office in which he/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

1 Role of Cabinet

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.

2 Form and Composition

2.1 The Cabinet comprises the Leader of the Council together with up to nine other Councillors, all appointed by the Leader.

2.2 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 a Committee.

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

2.4 The Leader and members of the Cabinet can sit on any Committees of the Council (with the local exception that the Leader shall not sit on the Standards Committee), but members of the Cabinet should not be in a majority. Subject to 2.2 above Members of the Cabinet can chair any Committees of the Council. –

2.5 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.

3 Functions of the Cabinet

3.1 The functions of the Cabinet shall be as follows:

(a) Within the Budget and Policy Framework set by Full Council, the Procedure Rules and the Financial Regulations, to discharge the Council's executive powers, duties and responsibilities.

(b) 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.

(c) To prepare draft Budget and Policy Framework documents and in so doing to consult with the Overview and Scrutiny Committee and to include in its submission to the Full Council a statement of views received and the Cabinet response to those views.

(d) 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.

(e) To be responsible for promoting the economic, social and environmental well-being of the area.

(f) To refer to the Full Council for determination all matters which are not in accordance with the Budget and Policy Framework adopted by the Full Council, except matters of urgency which shall be dealt with in accordance with the procedures set out in **Part 3 section 4**.

(g) To undertake a continuing review of the City Council's broad policy objectives and priorities over the whole range of its functions and to secure a continuous review and evaluation of the effectiveness of services and demonstrate that the City Council is delivering those services in accordance with the principles of Best Value, calling upon the overview and scrutiny function to assist in that process as it considers appropriate.

(h) To report to the Full Council, at each scheduled meeting, on the proceedings of the Cabinet, including a summary of all **Key Decisions** taken.

(i) To report to the Full Council, where appropriate, on any matters which Council or Overview and Scrutiny Committee or Budget and Performance Panel have requested.

(j) 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.

(k) To take any urgent action necessary in the event of a civil emergency and to determine general policy matters at such times.

(l) To consider all Bills introduced into Parliament and all Acts passed, which affect the interests of the City Council, and pursue any changes in the law which it feels appropriate and make recommendations to the Full Council involving significant policy issues.

(m) To delegate executive functions, as appropriate, to Cabinet Committees, Joint Committees, other authorities, Portfolio Holders or Officers.

4 LEADER

4.1 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.

4.2 The Leader will hold office until he or she:

(a) resigns from the office; or

(b) is disqualified or otherwise no longer a Councillor; or

(c) is removed from office by motion of Full Council that requires the support of a simple majority of those Councillors present; or

(d) Annual Council two years after the term begins, when the position of Leader is elected by simple majority for the next two years.

4.3 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.

4.4 A Cabinet member will hold office until he or she:

(a) resigns from the office; or

(b) is disqualified or is otherwise no longer a Councillor; or

(c) is removed from office, either individually or collectively, by the Leader.

5 RESPONSIBILITIES OF THE LEADER

5.1 The Leader shall:

(a) Nominate a Deputy Leader.

(b) Determine the size of, appoint Councillors to, preside over and provide leadership and direction to the Cabinet.

(c) 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.

(d) Represent the Council as Leader of the Council.

(e) Co-ordinate the decision-making process of the Cabinet and its Committees within the Budget and Policy Framework agreed by the Council.

(f) Co-ordinate the Cabinet's preparation of draft proposals to amend or update the Budget and Policy Framework.

(g) Co-ordinate the preparation of the Annual Budget.

(h) 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.

(i) Liaise with the Overview and Scrutiny Committee and the Budget and Performance Panel.

(j) 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.

(k) Prepare a quarterly report to Full Council setting out decisions taken under the general exception and special urgency procedures in **Part 3 -Section 4**.

(l) Answer questions at Full Council in accordance with the Council's procedures for Question Time.

(m) Present a Business Progress Report annually in writing to the Council.

6 Meetings of the Cabinet and its Committees

6.1 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.

6.2 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.

7 Proceedings of the Cabinet

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

8 Individual Cabinet Member Decisions

8.1 Cabinet members shall have the responsibilities as determined by the Leader from time to time.

8.2 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 - Section 2** of the Constitution.

8.3 Details of current Cabinet members and their portfolios 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 People and Organisational Development 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 governance 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. A list of Councillors having undertaken mandatory induction training shall be maintained by Democratic Support.

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

All members of the Committee must:

(a) have undertaken mandatory training on the relevant law and procedures which relate to the Committee's work, 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 Chief Officer.

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:

(a) 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;

(b) Caravan Site licensing development/control and moveable dwellings/camping sites;

(c) Sex shops and sex cinemas under the Local Government (Miscellaneous Provisions) Act 1982;

(d) Acupuncture, tattooing, semi-permanent skin colouring, piercing, electrolysis and other health and beauty treatments;

(e) Pleasure boats and pleasure vessels;

(f) Markets and Street Trading licences and consents;

(g) 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;

(h) Food supply, preparation, hygiene including restaurants, mobile and take-away food shops (including Closing Orders);

(i) Game licensing and food legislation including functions relating to meat, fish, shellfish, dairy, poultry, eggs, butchering and food safety;

(j) Scrap Metal Dealers and motor salvage operators;

(k) Zoos, animals, pets, dog breeding and slaughterhouses;

(l) Street collections, charitable activities and house to house collections;

(m) Loudspeakers, noise and statutory nuisances;

(n) Second-hand goods dealers under the County of Lancashire Act 1984;

(o) Employment of children;

(p) Licensing Act 2003 and Gambling Act 2005 functions including premises related functions;

(q) Gaming and Lotteries and Amusement Act responsibilities;

(r) Public Place Protection Orders

(s) Alcohol Disorder Zones; and

(t) Pavement Licences under the Business and Planning Act 2020.

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 Policies for consideration by the Cabinet and Full Council;

1.7 To appoint the Chairs of ad-hoc Licensing Sub-Committees as required from time to time and draw members from the Licensing Committee for those Sub-Committees; and

1.8 To delegate licensing functions to Sub-Committees as required and to exercise any functions of the Licensing Sub-Committees that may be appropriate from time to time.

2 Licensing Sub-Committee

Composition: **Three members of the Licensing Committee.**

The Licensing Committee will appoint its Chair, Vice Chair and two further Councillors, who are members of the Licensing Committee, 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 Senior Manager, Democratic Support and Elections (political balance is not required and the two members may comprise other Licensing Sub-Committee appointed Chairs).

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	Officer
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
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.

2.4 To determine applications for pavement licenses under the Business and Planning Act 2020 where adverse representations have been made and not withdrawn or other reasons why the Licensing Manager considers it relevant to refer the matter to the Licensing Sub-Committee.

3 Planning Regulatory Committee

Composition: **Fifteen 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 in 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 Chief Officer.

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:

(a) entering into agreements regulating the development or use of land;

(b) issuing certificates of existing or proposed lawful use or development;

(c) granting consents for the display of advertisements;

(d) entry onto land;

(e) the discontinuance of a use of land;

(f) 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

(g) 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).

Pre-Application Advice for Applicants

Level 1 Advice

Level 1 advice involves a desk-based assessment of 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, applicants will need to submit a Pre-Application Advice Form PRE-A (DOC,207KB), together with a site location plan and payment of the relevant fee. Applicants can choose to include further supporting information should they wish.

Level 2 Advice

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

Level 3 Councillor 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 Councillor 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 Councillor Engagement Forum is an integral part of the planning process as it provides Councillors 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 four weeks of submission by the developer.

Membership of the Forum is as follows:

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

4 People and Organisational Development Committee

Composition: **Seven Councillors in political balance. Chair appointed by Council annually. Where the Committee meets to appoint a Chief Executive, or Chief Officer (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 Chief Officer.

Terms of Reference:

To deal with the appointment of JNC Chief Officer level posts 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:

(a) Recruitment and retention;

(b) The "Raising Concerns" Whistleblowing, disciplinary, capability, grievance and harassment;

(c) Redeployment, redundancy, early retirement and severance;

(d) Sickness absence;

(e) Employee and organisational development, apprentices; and

(f) Health and Safety and welfare.

4.2 The People and Organisational Development Committee will also:

(a) Consider and recommend to Council the Annual Pay Policy Statement.

(b) Appoint a Panel (usually of three) from the Committee 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).

(c) Appoint to and make decisions in respect of redundancy and redeployment for JNC Chief Officer posts.

(d) Consider and deal with requests for voluntary severance, including early retirement and/or voluntary redundancy.

(e) Appoint a Panel of (usually of three) from the Committee, including at least one Cabinet member, assisted by one independent adviser, to act as an Appraisal Panel (as required by the JNC Conditions of Service for Chief Executives and Chief Officers) for the Chief Executive;

(f) Appoint, when required, an "Investigation and Disciplinary Committee" referred to in the JNC Conditions of Service for Chief Executives and Chief Officers; with power to appoint an independent investigator and independent advisors, if required; and to suspend the Chief Executive, if considered appropriate. Where the Investigation and Disciplinary Committee 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;

(g) Consider and respond to consultation requests in respect of national pay negotiations and determine pay awards;

(h) Determine any other personnel or HR matter that is not delegated to officers.

4.3 The seven members of the People and Organisational Development Committee shall represent Lancaster City Council on the Joint Consultative Committee (JCC) as the employer representatives.

5 Appeals Committee

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

All members of the Committee and Councillors attending as substitutes, must have attended a 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: **Seven Councillors in political balance. Chair appointed by Council annually.**

The Chair and Vice Chair must not be a member of the Cabinet or an Overview and Scrutiny Committee.

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.

Governance

6.1 The terms of reference should set out the committee's position in the governance structure of the authority.

Statement of Purpose

6.2 The audit committee is a key component of Lancaster City Council's corporate governance. The committee's purpose is to provide independent high-level focus on the adequacy of governance, risks and control arrangements. Its role in ensuring there is sufficient assurance over governance, risk and control gives greater confidence to all those charged with governance that those arrangements are effective.

6.3 It oversees internal and external audit, together with the financial and governance reports, helping to ensure that there are adequate arrangements in place for both internal challenge and public accountability.

Core Functions

Governance, Risk and control

6.4 To review the council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.

6.5 To review the Annual Governance Statement (AGS) and consider whether it properly reflects the risk environment and supporting assurances, taking into account the head of audit's annual audit opinion.

6.6 To consider whether the annual evaluation for the annual governance statement fairly concludes that governance arrangements are fit for purpose, supporting achievement of the authority's objectives.

6.7 To consider the reports on the effectiveness of internal controls and monitor the implementation of agreed actions.

6.8 To consider the reports on the effectiveness of the financial management arrangements, including compliance with CIPFA's **Financial Management Code.**

6.9 To consider the council's arrangements to secure value for money and review assurances and assessment on the effectiveness of these arrangements.

6.10 To monitor the effective development and operation of risk management in the council and monitor progress in addressing risk-related issues reported to the committee.

6.11 To monitor counter fraud, actions and resources and review the assessment of fraud risks and potential harm to the council from fraud and corruption.

6.12 To monitor the counter fraud strategy, actions and resources.

6.13 To review the governance and assurance arrangements for significant partnerships or collaborations.

Arrangements for audit and assurance

6.14 To consider the Councils framework of assurance and ensure that it adequately addresses the risks and priorities of the Council

Internal Audit

6.15 To approve the internal audit charter.

6.16 To review proposals made in relation the appointment of external providers of internal audit services and to make recommendations on their effectiveness.

6.17 To approve the risk-based internal audit plan, including resource requirements and the approach to using other sources of assurances and any work required to place reliance upon those other sources.

6.18 To make appropriate enquiries of both management and internal audit to determine if there are any inappropriate scope or resource limitations.

6.19 To consider any impairments to the independence or objectivity of internal audit arising from additional roles or responsibilities outside of internal auditing and to approve and periodically review safeguards to limit such impairments.

6.20 To approve significant interim changes to the risk-based audit plan and resource requirements.

6.21 To consider reports from internal audit on the performance during the year, including the performance of external providers of internal audit services These will include:

- Updates on the work of internal audit, including key findings, issues of concern and action in hand as a result of internal audit work.
- Regular reports on the results of Quality Assurance Improvement Programme (QAIP)
- Reports on instances where the internal audit function does not conform with Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN), considering whether the non-conformance is significant enough that it must be included in the AGS

6.22 To consider the head of internal audit's annual report including

- The statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement(these will indicate the reliability of the conclusions of internal audit)
- The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control, together with the summary of the work supporting the opinion (these will assist the committee in reviewing the AGS)

6.23 To consider summaries of specific internal audit reports as requested.

6.24 To receive reports outlining action taken where internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are any concerns about progress with the implementation of agreed actions.

6.25 To contribute to the QAIP and in particular the external quality assessment of internal audit that takes place at least once every five years.

6.26 To consider a report on the effectiveness of internal audit to support the AGS where required to do so by the accounts and audit regulations.

6.27 To provide free and unfettered access to the audit committee chair for the head of internal audit, including the opportunity for a private meeting with the committee.

External Audit

6.28 To support the independence of External Audit through consideration of any External Auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panne; as appropriate.

6.29 To receive and comment upon the scope and depth of the External Auditor work, considering the scope and depth of external audit work and to ensure it gives value for money.

6.30 To monitor the External Auditor's progress with the Annual Plan.

6.31 To consider the external auditors' annual letter, relevant reports and the report to those charged with governance.

6.32 To consider specific reports as agreed with the external auditor.

6.33 To advise and recommend on the effectiveness of relationships between internal and external audit and other inspection agencies or relevant bodies.

6.34 To provide free and unfettered access to the audit committee chair for the external auditors, including the opportunity for a private meeting with the committee.

6.35 To consider periodically whether the Auditors appointed to carry out the External Audit function remain independent and objective and, that their judgement in carrying out that role has not been impaired as a consequence of their participation in any non-audit reviews, services or advice provided to the Council.

6.36 To consider additional commissions of work from external audit.

Financial Reporting

6.37 To monitor the arrangements and preparations for financial reporting to ensure that statutory requirements and professional standards can be met.

6.38 To review the annual Statement of Accounts on behalf of full Council in accordance with the relevant Accounts and Audit Regulations 2022 Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

6.39 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

6.40 To consider and endorse amendments to the Council's Financial Regulations and Contract Procedure Rules and, on behalf of full Council, give any instructions to the Section 151 Officer as may be appropriate.

Accountability Arrangements

6.41 To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements and internal and external audit functions.

To prepare an annual report to full Council setting out the committee's work and performance during the year in relation to the terms of reference and to refer to Council and the effectiveness of the committee in meeting its purpose.

6.42 To publish an annual report on the work of the committee, including a conclusion on the compliance with the **CIPFA Position Statement**.

To review any issue referred to it by the Chief Executive or any Council body.

Other core functions

6.43 To consider any matters referred to it by the Monitoring Officer in accordance with Overview and Scrutiny Procedure Rule 12.

6.44 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.

6.45 To undertake the annual review of the council's use of the Regulation of Investigatory Powers Act 2000 (RIPA), ensuring compliance with the Code of Practice

6.46 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.

7 Standards Committee

Composition: **Seven Councillors in political balance. Chair appointed by Full 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 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.

7.13 To ensure decisions are politically neutral.

8 Council Business Committee

Composition: Seven 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, Contract Procedure Rules (reserved to Audit Committee) and minor constitutional amendments which are within the responsibility of the Monitoring Officer (see the table at paragraph 10.6 in **Part 1**).

8.6 To manage issues relating to Councillors, 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: Nine 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-Cabinet Councillors are entitled to vote for the Chair.

The Chair shall not be a member of any political group which has Councillors on the Cabinet (except where no nominations from non-Cabinet groups are received).

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 for 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 Together with Budget and Performance Panel, to assist the Cabinet in the development of the Budget and Policy Framework and, where appropriate, establish Task Groups, or identify 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 Council 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 any 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 furthering 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.

10 Budget and Performance Panel

Composition: **Nine 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. Only non-Cabinet members are entitled to vote for the Chair.

The Chair shall not be a member of any political group which has Councillors on the Cabinet (except where no nominations from non-Cabinet groups are received).

Terms of Reference

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:

(a) budget setting process;

(b) contents of the Medium Term Financial Strategy (MTFS);

(c) Capital Investment Strategy; and

(d) financial targets in the Council 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.:

(a) capital and revenue spending against approved budgets;

(b) specific activities including treasury management, generation of revenue and capital income targets; and

(c) monitoring of financial savings/efficiency targets (including within the MTFS).

(d) monitor the delivery and effectiveness of Service Level Agreement targets;

(e) assess performance against key performance indicators and benchmarks; and

(f) assess whether services are delivering their expected outcomes.

10.3 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.

10.4 To scrutinise the Council's policies and procedures and other supporting arrangements for securing value for money (i.e. economy, efficiency, effectiveness) e.g.:

(a) value for money strategy;

(b) procurement practices;

(c) income management and collection arrangements;

(d) asset management practices; and

(e) insurance arrangements.

10.5 To consider risk management issues in reviewing and scrutinising performance.

10.6 To make recommendations, as appropriate, in respect of the above.

11 Independent Remuneration Panel

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

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 Councillors' Allowance Scheme and, as and when appropriate, to submit reports (containing recommendations) to the Cabinet and Full Council, regarding:

11.2 The responsibilities or duties in respect of which the following should be available:

(a) special responsibility allowance;

(b) travel and subsistence allowance;

(c) co-optees' allowance;

11.3 The amount of such allowances and as to the amount of basic allowance;

11.4 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;

11.5 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

11.6 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: Two Independent Persons (minimum)

All of the Council's Independent Persons appointed pursuant to Section 28(7) of the 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 Council and who is a local government elector in the Council's area;

b) any other Independent Person who has been appointed by the Council;

c) an Independent Person who has been appointed by another local authority or local 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:

(a) hear, consider, ask questions and comment in respect of Statutory Officer discipline or grievance that could lead to dismissal; and

(b) 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 local authority, an Officer of another local authority or the establishment of a Joint Committee with another local authority or a number of local 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 Councillors to a Joint Committee from outside the Cabinet in the following circumstances:

(a) 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 represents a Ward which is wholly or partly contained within the area; and

(b) 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:

(a) 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

(b) 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:

Joint Committee for Revenues and Benefits

Composition: **Two Cabinet members of Lancaster City Council (to be appointed by the Leader) and Cabinet members 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:

(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:

(a) Maintenance of databases in administering Revenues and Benefits;

(b) Billing, collection and recovery of Council Tax and Non-Domestic Rates;

(c) Administration, assessment and payment of Benefits;

(d) Securing the gateway to Benefits and the identification of fraud and error, including investigation and determination of sanctions (save for prosecutions);

(e) Recovery of arrears or repayment of Housing Benefit and Council Tax Benefit Overpayment;

(f) Compilations of returns to Central Government relating to Revenues and Benefits (to be signed off by the Chief Finance Officer);

(g) Provision of administration and support services relating to Revenues and Benefits when appropriate;

(h) Approval of discretionary housing payments;

(i) Approval of applications for mandatory relief, discretionary relief for Non-Domestic Rates and Council Tax, including hardship and partial occupation;

(j) Recommendation and administration of any write-offs of bad debts within the scope of the write-off policies established by each Council;

(k) Preparation of benefit subsidy claims;

(l) Any additional functions that may be conducive to carrying out the shared service for Revenues and Benefits; and

(m) 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:

(a) Approving and setting of Council Tax;

(b) Calculation of Council Tax Base;

(c) Collection fund accounting;

(d) Approval of benefit subsidy claims;

(e) Determination of policy for second and empty homes;

(f) Determination of policy for write-off of bad debts and approval of any write-offs within the scope of that policy;

(g) Setting the level of, and the receipt of, enforcement fees;

(h) Approval of discretionary relief policies in relation to Non-Domestic Rates and Council Tax;

(i) Agreement of rating assessments for Council owned properties; and

(j) Authorisation and prosecution of benefit fraud cases.

2. Tenants' Forum

Composition: Tenants and Councillors. Councillors sit as non-voting members of the Forum. Councillor representation comprises the Cabinet member with responsibility for Housing plus five other Councillors invited by the Cabinet member.

The Tenants' Forum (see Cabinet minute 3rd June 2008) is established to:

(a) promote the interests of all Council tenants of the District, and to assist in maintaining good relations between all members of the community.

(b) promote Council tenants' rights and the maintenance and improvement of housing conditions, amenities, and the environment.

(c) ensure that all tenants have effective opportunities to participate in the management of their homes and neighbourhoods.

(d) promote change in response to tenants' needs and aspirations.

(e) act as a consultative group on all issues concerning tenants at District-wide level.

(f) 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.

Full Terms of Reference are available from the Chief Officer Housing and Property.

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 Council 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 Chief Officer may be exercised by the Chief Executive, and any power delegated to any other Officer may be exercisable by the Officer's Chief Officer 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 Chief Officer. 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 Chief Officer given the subject matter for decision, or, in the absence of that Chief Officer or where the decision is general in nature, by any Chief Officer or Senior Emergency Officer on 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 Chief Officers 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 Senior Manager, Democratic Support and Elections. 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 the Scheme of Delegation operates means that any Officer given powers under the 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). A full list of the Local Schemes of Delegation can be viewed. Any of the schemes can be looked at 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 Senior Manager, Democratic Support and Elections.

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 re-organisations, changes in job titles and vacancies (where such changes result in redistributing existing delegations), to reflect legislative changes and to effect Councillor 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 they consider 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 they consider 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) and the Housing 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 change a meeting date, venue or time, with the agreement of the relevant Chair, should this become necessary after the timetable of meetings has been agreed.

Delegations from the People and Organisational Development Committee

In respect of all posts, except JNC Chief Officer posts, to establish new posts and approve minor structural re-organisations, 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 Officers within the policy set by the People and Organisational Development 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 (whilst in employment) and termination payments, including voluntary severance, early retirement and/or voluntary redundancy, within Council policy, up to £50,000.

To approve special severance payments below £20,000.

To approve special severance payments of £20,000 and above but below £100,000, with a clear record of the Leader's approval. Special severance payments over £50,000 and below £100,000 should be reviewed by the Monitoring Officer and the Section 151 Officer who may refer a final decision to Full Council if felt necessary. Special severance payments of £100,000 and above must be approved by a vote of Full Council, as set out in the Localism Act 2011.

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 Officers 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 People and Organisational Development Committee).

General Delegations from Council, Committees and Cabinet to the Chief Executive and Chief Officers

To be responsible for and to exercise all functions that may fall within their job role from time to time including matters set out below.

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 Chief Officer 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 Councillor body.

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.

To designate authorised Officers, who may then act on behalf of the Council, to serve notices, apply for warrants, exercise power of entry/seizure and take action and make decisions under any Act, statutory instrument, order or regulations that provides the Council with a power/duty to act in accordance with their designation as an authorised Officer.

CHIEF OFFICER ENVIRONMENT AND PLACE

To investigate and enforce contraventions of Food Safety and hygiene legislation (including the Food Safety Act 1990) and regulations made under the European Communities Act 1972 (including the Food Safety and Hygiene (England) Regulations 2013.

To serve notices and to exercise all powers under Food Safety and hygiene legislation. This includes the service of improvement notices, prohibition notice, entry to food business premises, seizure,

requests for information from FBOs and applications for warrants under the Food Safety and Hygiene (England) Regulations 2013.

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.

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 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 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.

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 Chief Officer Environment and Place 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 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 determine applications in respect of chimney heights under the Clean Air legislation.

The discharge of any function relating to the control of pollution or the management of air quality (including the enforcement of the provisions of the Clean Air Act 1993).

To issue notices and take other relevant action in relation to the control of horses in accordance with the Animal Act 1971 (as amended) and the Control of Horses Act 2015.

To issue notices and take all other relevant action under the Criminal Justice and Public Order Act 1994.

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

To authorise officers to investigate, serve notices, enforce contraventions, and to exercise all relevant functions under the following:-

Building Act 1984
County of Lancashire Act 1984
Environment Act 2021
Environmental Permitting (England and Wales) Regulations 2016 (as amended)
Noise Act 1996
Pollution Prevention and Control Act 1999
Water Industry Act 1991
Private Water Supply (England) Regulations (as amended)
Sunday Trading Act 1994

DELEGATIONS TO ANY OFFICERS DESIGNATED BY THE CHIEF OFFICER ENVIRONMENT AND PLACE IN WRITING

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

DELEGATIONS TO THE CHIEF OFFICER GOVERNANCE

In consultation with the Mayor, to make decisions on requests to fly flags to support different national/international campaigns, events and organisations.

Non-Executive functions delegated by Licensing Committee

In consultation with the Chair or Vice Chair to suspend or revoke an operator's licence under Section 62 of the Local Government (Miscellaneous Provisions) Act 1976.

In consultation with the Chair or Vice Chair 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 or revoke 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 Chief Officer Governance 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 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 determine applications for Premises Licences/Club Premises Certificates where all parties agree a hearing is unnecessary in accordance with Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005 despite representations being made.

To determine applications to vary Premises Licences/Club Premises Certificates where all parties agree a hearing is unnecessary in accordance with Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005 despite representations being made.

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.

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.

Non-Executive Functions Delegated by the 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 Licences.

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 Licensing Manager 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.

General delegations

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 Councillors' 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 Councillors' 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 authorise Officers of the Council to appear in any court or tribunal as appropriate.

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 Chief Officer.

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.

DELEGATIONS TO ANY OFFICERS DESIGNATED BY THE CHIEF OFFICER GOVERNANCE IN WRITING

Under the cascade principle (above) the Chief Officer Governance may authorise other suitably qualified and experienced Officers to undertake any of the functions set out above.

DELEGATIONS TO THE CHIEF OFFICER RESOURCES

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

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 Chief Officer Resources or other Officer authorised by him/her unless any enactment otherwise authorises or requires differently, 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.

DELEGATIONS TO ANY OFFICERS DESIGNATED BY THE CHIEF OFFICER RESOURCES IN WRITING

Under the cascade principle (above) the Chief Officer Resources may authorise other suitably qualified and experienced Officers to undertake any of the functions set out above.

DELEGATIONS TO THE CHIEF OFFICER PLANNING AND CLIMATE CHANGE

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 the Building Act 1984 and Building Regulations and under the Planning Acts including the Town and Country Planning Act 1990 (as amended).

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.

To set fees and charges for Building Regulation services, in accordance with the provisions of the Building (Prescribed Fees) Regulations 1994.

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 pre-planning application activity, planning applications, s106 monitoring costs and any other services provided under the Terms of Reference of the Planning Regulatory 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 Department for Levelling Up, Housing and Communities (or any other Government Ministry or Department superseding this),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 Planning and Climate Changeconsiders 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 twenty-one 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 twelve 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).

Where a Ward Councillor submits a request, for an application to be referred to the Committee and where the Ward Councillor is also a member of the Planning Regulatory Committee, that Councillor 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 serve, pursuant to planning legislation, including the Town and Planning Act 1990, Planning Contravention Notices, Breach of Condition Notices, Building Preservation Notices, Enforcement Notices, Stop Notices, Demolition Notices, Completion Notices, Repair Notices or any other Notice and to take any other related action.

To investigate and enforce breaches of planning control, planning condition or planning legislation.

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.

To exercise all planning and development control functions including entering into planning agreements such as agreement under section 106 Town and Country Planning Act 1990.

To serve notices or take any action in relation to hedgerows legislation including the Environment Act 1995.

To take all steps, including issuing, serving and withdrawing notices, entering premises and authorising works, necessary to protect and deal with buildings under s29 of the Local Government (Miscellaneous Provisions) Act 1982

DELEGATIONS TO ANY OFFICERS DESIGNATED BY THE CHIEF OFFICER PLANNING AND CLIMATE CHANGE IN WRITING

Under the cascade principle (above) the Chief Officer Planning and Climate Change may authorise other suitably qualified and experienced Officers to undertake any of the functions set out above.

DELEGATIONS TO THE CHIEF OFFICER HOUSING AND PROPERTY

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

To serve any statutory notice, counter-notice or document in respect of a dwelling house or under the Mobile Homes Act 1983 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 or under the Mobile Homes Act 1983 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.

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 authorised to commence anti-social behaviour injunction proceedings under Section 1.

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 or support care in the community.

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 Chief Officer Resources

To appoint, in writing, suitably qualified officers to act on behalf of the Council under the Animal Welfare Act 2006 and the Animal Welfare (Licensing of Activities Involving Animals (England) Regulations 2018.

To issue notices and take other relevant action in relation to the Control of Horses Act 2015 (Animals Act 1971 as amended by Control of Horses Act 2015).

Under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 to act an Inspector; 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 Chief Officer Resources and to designate authorised Officers who may then act on behalf of the Council under the legislation in accordance with their designation.

To serve notices and to act on behalf of the Council under 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 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 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 issue notices and take other relevant action in relation to the control of horses in accordance with the Animal Act 1971 (as amended) and the Control of Horses Act 2015.

Where a disposal of a Council asset does not contain the standard overage clause, to delegate agreement to the Chief Officer Housing & Property in consultation with the Cabinet Member with responsibility for Finance and Property and the Leader.

To take any steps in relation to the imposition and enforcement of Financial Penalties pursuant to s.249A of the Housing Act 2004, and Schedule 13A thereto.

Functions delegated by Licensing Committee

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 Chief Officer Governance 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.

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 £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 per annum for alternative use) subject to the approval of the Chief Officer 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 approve the naming of streets and numbering of properties.

To serve or to authorise the service of notices under the Landlord and Tenant Act 1954.

Where a disposal of a Council asset does not contain the standard overage clause, to delegate agreement to the Chief Officer Housing & Property in consultation with the Cabinet Member with responsibility for Finance and Property and the Leader

DELEGATIONS TO ANY OFFICERS DESIGNATED BY THE CHIEF OFFICER HOUSING AND PROPERTY IN WRITING

Under the cascade principle (above) the Chief Officer Housing and Property may authorise other suitably qualified and experienced Officers to undertake any of the functions set out above.

DELEGATIONS TO THE CHIEF OFFICER SUSTAINABLE GROWTH

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 Notices and the closure of Council owned public land and car parks where required to do so for operational or health and safety purposes.

To approve the terms and conditions of market lettings.

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

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.

DELEGATIONS TO ANY OFFICERS DESIGNATED BY THE CHIEF OFFICER SUSTAINABLE GROWTH IN WRITING

Under the cascade principle (above) the Chief Officer Sustainable Growth may authorise other suitably qualified and experienced Officers to undertake any of the functions set out above.

DELEGATION TO THE RETURNING OFFICER

in consultation with the relevant ward Councillors, to make any necessary changes to polling places that may arise other than as part of a review.

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 and recovery of Housing Benefits, Council Tax Benefits, 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) will nominate a deputy in writing.

DELEGATIONS TO THE MONITORING OFFICER

(a) **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.

(b) **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.

(c) **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 they consider 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.

(d) **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.

(e) **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.

(f) To institute, defend, or participate in 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.

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

(h) To settle or compromise any claim against the Council or legal proceedings to which the Council is a party, in consultation with the relevant Chief Officer

(i) The Common Seal of the Council will be kept in a safe place within the custody of the Monitoring Officer. 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 Monitoring Officer, should be sealed. The affixing of the Common Seal will be attested by a Chief Officer

Non-Executive Functions Delegated by the People and Organisational Development 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 People and Organisational Development 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 any hearings as appropriate.

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

The Monitoring Officer will nominate a deputy or deputies in writing in accordance with Section 5(7) of the Local Government and Housing Act 1989.

DELEGATIONS TO THE SENIOR MANAGER, DEMOCRATIC SUPPORT AND ELECTIONS

Non-Executive functions delegated by the Licensing Committee

To empanel ad hoc Sub-Committees from the pool of ten Licensing Committee members.

DELEGATIONS TO THE LICENSING MANAGER

Non-Executive functions delegated by Licensing Committee

To be an authorised Officer for the purposes of the Local Government (Miscellaneous Provisions) Act 1976 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, who may act on behalf of the Council under the Acts.

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

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.

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 Chief Officer Governance 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 a Chief Officer or the Licensing Committee from time to time.

DELEGATIONS TO ALL CHIEF OFFICERS IN RESPECT OF OFFICERS WITHIN THEIR SERVICE

Non-Executive functions

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 OFFICERS 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 Officers and take action as required by, and in accordance with, the terms of Council employment policies and procedures, including determining 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 A table of designated Proper Officers is set out below:

Function	Legislative Provision	Proper Officer	Deputy
Reference in legislation to the "Clerk"	**Any legislation before October 1972**	Chief Officer Governance	Senior Manager, Democratic Support and Elections
Appointment as Parish Trustee with Chair of Parish as body corporate for a Parish Meeting; The Officer responsible for convening newly created Parish Councils	**Local Government Act 1972** Section 13(3)	Chief Executive	
Witness and receipt of declaration of acceptance of office	**Local Government Act 1972** Section 83	Chief Executive	
Receipt of notice of resignation by councillor	**Local Government Act 1972** Section 84	Chief Executive	
Declare any vacancy in office	**Local Government Act 1972** Section 86	Chief Executive	
Convening a meeting of Council to fill casual vacancy in office of Chair	**Local Government Act 1972** Section 88(2)	Chief Executive	
Receipt of notice of casual vacancy from two local government electors (Also for Parish and Community Councils)	**Local Government Act 1972** Section 89(1)(b) **Local Elections (Parishes and Communities) (England and Wales) Rules 2006/3305**	Chief Executive	

Signature of summons to council meetings	**Local Government Act 1972** Section 99 & Schedule 12 Para.4(1A)(b)	Chief Executive	
Exclusion of reports, etc. from inspection	**Local Government Act 1972** Section 100B Schedule 12A	Monitoring Officer	
Written Summary where minutes would disclose exempt information	**Local Government Act 1972** Section 100C	Chief Officer Governance	
Compilation of list of background papers	**Local Government Act 1972** Section 100D	Chief Officer Governance	Senior Manager, Democratic Support and Elections
Exclusion from production to Councillors of documents disclosing exempt information	**Local Government Act 1972** Section 100F	Monitoring Officer	
Receipt of money due from Officers	**Local Government Act 1972** Section 115(2)	Chief Finance Officer	
Declarations and certificates with regard to securities	**Local Government Act 1972** Section 146(1)(a)	Chief Finance Officer	
The Officer having responsibility for the proper administration of the financial affairs of the Council.	**Local Government Act 1972** Section 151 Also **Local Government Finance Act 1988** 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	**Local Government Act 1972** Section 191	Chief Officer Planning and Climate Change	
Charity functions	**Local Government Act 1972** Section 210	Chief Finance Officer	
Authorise Officers to appear in legal proceedings	**Local Government Act 1972** Section 223 (Also Section 60 County Courts Act 1984)	Chief Officer Governance	Senior Solicitor
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	**Local Government Act 1972** Section 225(1)	Chief Executive	
Certification of photographic copies of documents	**Local Government Act 1972** Section 229(5)	Chief Officer Governance	Senior Solicitor

Authentication of documents	**Local Government Act 1972** Section 234(1)	Chief Officer Governance	Senior Solicitor
Sending confirmed byelaws to the Proper Officer of every Parish and Community Council to which they apply	**Local Government Act 1972** Section 236	Chief Executive	
Certification of byelaws	**Local Government Act 1972** Section 238	Chief Executive	
Keeping of roll of Freemen	**Local Government Act 1972** Section 248	Chief Executive	
Officer to whom Councillors shall give notice of address desiring Council summonses to be sent where not place of residence	**Local Government Act 1972** Schedule 12 Para.4(3)	Chief Executive	
Certification of resolutions under paragraph 25 applying or dis-applying provisions under the Public Health Acts 1875 onwards	**Local Government Act 1972** Schedule 14 Para.25(7)	Chief Officer Governance	
Authentication of documents and issue of notices	Various including: (a) Statutory notices under the **Public Health Acts 1936 and 1961, the Control of Pollution Act 1974, the Housing Acts 1957 and 1988 and the Local Government Act 1989** (other than for Council Houses), the **Local Government Miscellaneous Provisions) Act 1976** (except as specified in the next paragraph), the **Prevention of Damage by Pests Act 1948, the Food Safety Act 1990 and the Environmental Protection Act 1990** (as it relates to statutory nuisances) (b) Notices under the Building Regulations and the **Building Act 1984** and under the **Local Government (Miscellaneous Provisions) Act 1976** with regard to dangerous trees and excavations (c) any other matter	Chief Officer Environment and Place	

Receipt on deposit of lists of buildings of special architectural or historical interest and Building Preservation Notices	**Town and Country Planning Act 1971** Sections 54 & 58	Chief Officer Planning and Climate Change	
Officer having responsibility for the storage and charge of cemetery records	**Local Authorities' Cemeteries Order 1977** Article 12	Chief Officer Environment and Place	
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	**Local Authorities' Cemeteries Order 1977** Paragraph 1 of Parts I & II of Schedule 2	Chief Officer Environment and Place	
The Registration Officer for any constituency of part of a constituency coterminous or situated in the District.	**Representation of the People Act 1983** Section 8 and 52	Chief Executive	
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	**Local Government Act 1972** Section 35(1) **Local Government Act 1972** Section 82	Chief Executive	
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.	**Local Elections (Principal Areas) (England and Wales) Rules 2006/3304**	Chief Executive	
Publication of Ombudsman reports.	**Local Government Act 1974** Part 3 - Section 30	Chief Executive	Monitoring Officer
(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	**Building Act 1984**	Chief Officer Planning and Climate Change	

To determine applications for exemption from the list of Politically Restricted Posts Maintain a list of Politically Restricted Posts	**Local Government and Housing Act 1989** Section 3A Section 2	Chief Executive	Monitoring Officer
Receipt of Notice re changes to Political Groups 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	**Local Government and Housing Act 1989** Sections 15,16 & 17 **Local Government Political Groups) Regulations 1990** Paras 9, 10, 13 & 14	Chief Executive	Senior Manager, Democratic Support and Elections
Discharging the functions for dealing with stray dogs	**Environmental Protection Act 1990** Sections 149 - 151	Chief Officer Environment and Place	
Service of notices requiring details of any interests in land.	**Local Government (Miscellaneous Provisions) Act 1976** Sections 16	Chief Officer	
Certification of copies of resolutions, minutes and other documents	**Local Government (Miscellaneous Provisions) Act 1976** Section 41	Chief Officer Governance	
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	**Public Health Act 1936** Sections 11, 48, 58 & 60 **Public Health (Control of Disease) Act 1984**	Chief Officer Environment and Place	
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.	**Land Registration Act 2002 and** **Local Land Charges Act 1975**	Chief Officer Governance	Senior Solicitor
Entertainments, licensing control of sex shops and public health	**Local Government (Miscellaneous Provisions) Act 1982**	Licensing Officer	
Licensing and gambling functions	**Licensing Act 2003** **Gambling Act 2005**	Licensing Officer	

Non-disclosure where potential to prejudice the effective conduct of public Affairs	**Freedom of Information Act 2000** Section 36	Chief Executive	Monitoring Officer
Scrutiny Officer	**Local Government Act 2000** Section 9FB see 9FB (5) discretionary for DC	Chief Officer Governance	Senior Manager, Democratic Support and Elections
Proper Officer Functions for petitions and referenda	**Local Authorities (Referendums) (Petitions) (England) Regulations 2011/2914**	Chief officer Governance	Senior Manager, Democratic Support and Elections
29 – Establish and maintain a register of Councillors' and co-opted Councillors' interests 30 – 31 – Receipt of Councillors and co-opted Councillors' declarations of interests and changes to those interests within twenty-eight days 32 – Sensitive Interests 33 – Dispensations from restrictions under Section 31(4)	**Localism Act 2011** Sections 29 - 33	Monitoring Officer	Deputy Monitoring Officer
Proper Officer functions in relation to referenda	**Local Authorities (Conduct of Referendums) (England) Regulations 2012**	Chief Officer Governance	
Proper Officer functions anti-social behaviour and community protection	**Anti-Social Behaviour Act 2003 and Anti-Social Behaviour, Crime and Policing Act 2014**	Chief Officer Environment and Place	
Proper Officer for notification to deal with objections by Cabinet to appointments or dismissals of Chief and Deputy Chief Officers	**Local Authorities (Standing Orders) (England) Regulations 2001/3384**	Chief Officer People and Policy	
Data Protection Officer (under the GDPR)	**Data Protection Act 2018; General Data Protection Regulation**	Information Governance Manager	
Making a report to Council where a **Key Decision** has been made without a Key Decision Notice nor in compliance with the Cabinet Procedure Rules.	**Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012/2089**	Monitoring Officer	Senior Manager, Democratic Support and Elections
Any other provisions for which arrangements are not made above or in the	**Any**	Chief Officer Governance	

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.			

PART 3

RULES OF PROCEDURE

PART 3 SECTION 1

Council Procedure Rules

1 RULE 1 - ANNUAL MEETING OF THE COUNCIL

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 (and an Assistant Deputy Mayor should one be necessary);

(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 Armed Forces Champion and Disability Champion Roles should the post(s) be vacant;

(l) consider any business set out in the notice convening that meeting.

2 RULE 2 - ORDINARY MEETINGS

2.1 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 on notice from the public, which have been submitted in accordance with Council Procedure Rule 11, and provide answers to those questions;

(g) receive petitions and addresses from the public, which have been submitted in accordance with the Council's petition process and Council Procedure Rule 13 on public speaking;

(h) deal with any business from the last Council meeting;

(i) receive a report from the Leader and subsequent questions and, on an annual basis from the Mayor, each Cabinet Member, the Audit Committee, the Overview and Scrutiny Committee and Budget and Performance Panel;

(j) receive reports and referred items from Cabinet and any Council Committee;

(k) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;

(l) consider motions on notice;

(m) 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 any Council Committee;

(n) receive written questions on notice from Councillors and subsequent answers;

(o) receive Cabinet minutes;

(p) consider any other business specified in the summons to the meeting, including appointments to Committees and outside bodies.

2.2 At an Ordinary meeting preceding the Annual Meeting the Council will approve a programme of Ordinary meetings for the next municipal year.

3 RULE 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;

(iv) five Councillors if they have signed a requisition presented to the Mayor.

The Chief Executive will call a meeting within seven days of the presentation of the requisition, (to be held at an appropriate time and date), unless the requisition is rejected on one or more of the following grounds, that 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 motion which has been put to a meeting of the Council in the past six months; or

(e) relates to individual staffing matters or the personal information of Councillors or Officers.

3.2 Business

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

4 RULE 4 - APPOINTMENT OF SUBSTITUTE MEMBERS OF ALL COMMITTEES

4.1 Allocation

For each Committee (save for the Licensing Committee) each Group may appoint a maximum of two named substitutes. For all Committees, except Overview and Scrutiny meetings, Groups may change such appointment at any time by giving notice to the Senior Manager, Democratic Support and Elections 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, having first undertaken the appropriate mandatory training required for the Committee, 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) Substitute members are not permitted on the Licensing Committee;

(c) Temporary substitutes, having first undertaken the appropriate mandatory training required for the Committee, may attend as required by Groups after notifying the

Senior Manager, Democratic Support and Elections in writing or by electronic mail (from a known or recognised source) at least thirty 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 RULE 5 - TIME AND PLACE OF MEETINGS

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

6 RULE 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 Procedure Rules. At least five days before a meeting, the Chief Executive will send a summons signed by them 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 RULE 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 RULE 8 - QUORUM

The quorum of a meeting of the Full Council will be one quarter of the whole number of Councillors. Committees, Sub-Committees and Task Groups have a quorum of one quarter (rounded up if necessary) with a minimum quorum of three. 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 they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

9 RULE 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 **Councillor's Code of Conduct** in **Part 4** 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 consideration of the whole 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 Councillor'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 RULE 10 - DURATION OF MEETING

Interruption of the Meeting

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

11 RULE 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 three 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 Senior Manager, Democratic Support and Elections 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 two 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 their 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 three 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 RULE 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:

i. 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 Cabinet to account.

ii. Cabinet members may only question the Leader on any matters contained within the Leader's Report which have not previously been considered at Cabinet.

iii. Questions must take no longer than two 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:

(a) the Chair;

(b) a member of the Cabinet;

(c) the Chair of any Committee;

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**

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:

(d) notice has been given no later than midday three days before the meeting in writing or by electronic mail (from a known or recognised source) of the question to the Chief Executive; or

(e) 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 midday on the day of the meeting or one hour before the commencement of the meeting, whichever is the earlier; and

(f) The Chief Executive does not reject the question on the following grounds, that it:

i. is not about a matter for which the local authority has a responsibility or which affects the District;

ii. is potentially defamatory, vexatious, frivolous or offensive;

iii. refers to applications for or objections to planning permission or any licence, notice or order issued, served or made by the Council;

iv. is substantially the same as a question which has been put at a meeting of the Council in the past six months; or

v. 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 RULE 13 - PUBLIC SPEAKING

13.1 At a meeting of the Council, a person who lives, works or studies in the area of the Council 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:-

(a) planning permission;

(b) 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 Support 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/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 10 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 Chief Officer Governance 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.

14 RULE 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 Council has functions, or which affects the area of the Council, 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:-

(a) planning permission;

(b) 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 their intention to do so to the Chief Executive, in writing or by electronic mail, and shall show the address to the Chief Executive. The Chief Executive will not accept the notice unless he or she is satisfied that the address is appropriate 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 the 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.

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 and the Council's petition process.

15 RULE 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 two 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:

(a) be potentially defamatory, vexatious, frivolous or offensive;

(b) refer to applications for, or objections to, planning permission or any licence, notice or order issued, served or made by the Council; or

(c) 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 that the question is clearly related to the motion on notice and not potentially defamatory, vexatious or offensive.

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 one question per Councillor shall be permitted on a motion.

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 RULE 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 Councillor to a Committee, Board or other body 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 Procedure 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 RULE 17 - RULES OF DEBATE

17.1 No Speeches Until Motion Seconded

No speeches may be made until 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 Seconder'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 five minutes without the consent of the Chair. The mover of a motion may speak for no longer than five 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 words

as 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.

(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 Procedure 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, the Chair 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, the Chair 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 the 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 they consider 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 RULE 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 RULE 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 **Electronic Voting and Show of Hands**

Unless a recorded vote is demanded under Rule 19.4, electronic voting will be the method used where available and at the discretion of the Chair. If electronic voting is not used, 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 clerk shall record in writing whether each Councillor votes electronically for or against the motion or abstains from voting and this shall be entered into the minutes.

If the facility for electronic voting is not available, 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. Link to the electronic voting protocol agreed by Council is HERE.

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

Where any Councillor requests their individual vote to be recorded, 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 Full Council on any decision relating to the making of a Council Tax calculation, estimates 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, against the decision, and who abstained from voting. The Proper Officer shall take the vote by calling the names of Councillors and recording how or whether they voted.

20 RULE 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 that the Chair put them in.

21 RULE 21 - EXCLUSION OF PUBLIC

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

22 RULE 22 - COUNCILLORS' 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 RULE 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/she thinks necessary.

24 RULE 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 Media Relations Manager, 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 RULE 25 - SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

25.1 Suspension

All of these Council Procedure Rules, 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 Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

26 RULE 26 - APPLICATION TO COMMITTEES

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

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 Support before midday 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 RULE 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 an Extraordinary Meeting of Council unless the Extraordinary 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(s).

(e) Petitions that are considered by 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 Monitoring Officer, in respect of the Chief Executive) or to the Monitoring Officer regarding allegations of Councillor incompetence or misconduct and will be considered under the City Council's Standards Committee procedures, and not under this Petitions Procedure Rule.

(g) Any request to speak in relation to the Petition must be made by midday at least three days before the meeting and include the details of the Petition and the speaker's 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, then other procedures will apply. Further information on all these procedures and how views can be expressed are available on the Council's website www.lancaster.gov.uk and from Customer Services (customerservices@lancaster.gov.uk).

PART 3 – SECTION 2

Cabinet Procedure Rules

Rule 1 - How the Executive Operates and 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:

(a) The Leader;

(b) Cabinet as a whole;

(c) Individual Cabinet members;

(d) a Committee of the Cabinet;

(e) Officers of the Council;

(f) if and when established - joint arrangements with other local authorities; or

(g) another local authority;

Rule 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.

(c) The document presented by the Leader will contain the following information about Executive functions in relation to the coming year, and these shall then be included in the Council's Constitution:

(i) The extent of authority of the Cabinet as a whole;

(ii) The extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;

(iii) the terms of reference and constitution of such Cabinet Committees as the Leader or Cabinet appoints and the names of Cabinet members appointed to them;

(iv) 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 or outside body for the coming year; and

(v) 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.

Rule 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 Cabinet or an individual member of the Cabinet may delegate further to a Council Officer.

(c) Where executive functions have been delegated under (a) or (b) above, this does not prevent the discharge of delegated functions by the person or body who made the delegation.

(d) Any decision by an individual Cabinet Member over £100,000 requires consultation with the relevant Chief Officer or Chief Executive.

Rule 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 Rule 2 above.

(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 Chief Officer Governance 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 Leader will present a report to the next Ordinary meeting of the Council setting out the changes they have made.

(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.

(d) Currently the Leader has delegated a financial limit of £200,000 to the Chief Executive and £100,000 to the Chief Officers. Any decision over £50,000 should be taken in consultation with relevant Cabinet member.

Rule 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 (or a decision taken by the Chief Executive).

(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.

Rule 6 - Cabinet Meetings – When and Where?

The Cabinet will usually meet monthly on dates and at times to be agreed by the 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.

Rule 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.

Rule 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 three, whichever is the greater.

Rule 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 Procedure 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.

Rule 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 Procedure 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.

Rule 11 - Agendas

Cabinet members will take responsibility and ownership of Cabinet reports in their portfolio area of responsibility.

Rule 12 - 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 they are 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.

Rule 13 - 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.

Advisory 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.

Rule 14 - 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 Councillors and registered members of the public wishing to speak in accordance with Rule 18 below;

(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 as set out in this Constitution; and

(h) reports from the Chief Executive or Chief Officers.

Rule 15 - 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 Committees and 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.

Rule 16 - Cabinet Agenda Items

The Leader may put on the agenda of any Cabinet meeting any matter which they wish, whether or not authority has been delegated to the Cabinet, a Committee or any member of Cabinet or an Officer in respect of that matter.

Any Councillor 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.

The Chief Executive, Monitoring Officer and 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 or Chief Finance Officer may require the Chief Executive to call such a meeting in pursuance of their statutory duties. 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 the matter requires an Extraordinary meeting, the relevant Statutory Officer(s) can require that a meeting be convened at which the matter will be considered.

Rule 17 – Chair's Discretion regarding Questions on Reports

The Chair, at their discretion, may allow non-Cabinet Councillors in attendance at the meeting to ask questions on reports as they are introduced.

Rule 18 - Right of Councillors to Address Cabinet

Where, following an Overview and Scrutiny meeting, a report is submitted to Cabinet, a nominee of that meeting may and will normally present the report to Cabinet. Any Councillor, 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.

Rule 19 - 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 or comments from the public prior to the commencement of each item.

(b) Notice of the wish to speak must be registered with Democratic Support in writing or by telephone before midday 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 Support. 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 Support, 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 on a first come first served basis.

(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 Chief Officer Governance 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.

Rule 20 - 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:

i. **Key Decisions** and **Key Decision** notices
ii. Exempt and Confidential Business
iii. 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.**

Rule 21 - Advisory Groups

(a) Advisory Groups are informal bodies that may be created by Cabinet. They are purely consultative and not decision-making. They will be chaired by a member of Cabinet, and may be co-chaired between cabinet members, or a cabinet member and a member of the group 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 facilitate meaningful engagement and discussion with communities and stakeholders, with each group reflecting on focus areas role in:

- responding to the climate emergency;
- contributing to community wealth-building;
- taking an approach of asset-based community development; and
- strengthening community engagement.

Further terms of reference may be agreed upon by each Advisory Group, within the terms of the broad topic area, and observing the focus areas above.

(d) Specific outcomes from their meetings may generate requests for pieces of work to be undertaken by Officers or partner bodies, or Overview and Scrutiny committee to set up a Task Group to undertake a specific piece of work, or a specific report to Cabinet, Committees of Cabinet, individual Cabinet members, or other Committees of Council recommending action for determination

PART 3, SECTION 3

Overview and Scrutiny Procedure Rules

1. Rule 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 of no more than 9 Councillors 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 Councillor or a small informal working group of Councillors 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. Rule 2 - Task Groups

The Overview and Scrutiny Committee will decide whether a Task Group should be:

(a) formal (subject to proportionality and Access to Information Procedure Rules) and report directly to Cabinet or Council; or,
(b) informal (not subject to proportionality and Access to Information Procedure Rules); and

they shall report back to the Overview and Scrutiny Committee.

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 staff and other Councillors) as non-voting co-optees to assist in any item of business, as they deem appropriate. Officers 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. Rule 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 Overview and Scrutiny bodies. No Councillor may be involved in scrutinising a decision in which they have been directly involved.

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 the Overview and Scrutiny Committee with regard to the quorum needed to trigger a Call-in request. No temporary substitutions will be allowed.

4. Rule 4 - Involvement with Overview and Scrutiny

Any person including Councillors and Officers may be invited to attend, present evidence or share their expertise with any Overview and Scrutiny meeting in accordance with Procedure Rule 15 (Attendance by Others). Requests for staff to attend should be made through the Chief Executive.

5. Rule 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. Rule 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. Rule 7 - Quorum

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

8. Rule 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. Rule 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 2, Section 5,** 9 and 10 of this Constitution.

The Overview and Scrutiny Committee shall write to all Councillors and the Chief Executive and ask the public for issues that should be considered for inclusion in the Scrutiny Work Programme. A meeting to be arranged with the Chair of the Overview and Scrutiny Committee, Chair of Budget and Performance Panel, the Pre-Scrutiny Champion and members of the Council's Leadership Team. This meeting will allow a preliminary prioritisation of submissions to be conducted and report back to the Overview and Scrutiny Committee. This being subject to the arrangements for consulting on future Work Programme items as set out in the Constitution continuing and the Work Programme being finally agreed by the Overview and Scrutiny Committee.

(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. Rule 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 Councillor 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 they 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 Support accordingly so that it can be included in the Work Programme.

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

11. Rule 11 - Policy Review and Development

(a) The role of Overview and Scrutiny Committees 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, an Overview and Scrutiny Committee will prepare a formal report for consideration by the Cabinet or Council.

(d) Cabinet or Council shall consider any report of an Overview and Scrutiny Committee at their first available meeting.

(e) The Overview and Scrutiny Committees will have access to the notices of forthcoming Key Decisions, and will be able to respond in the course of the Cabinet's consultation process in relation to any Key Decision.

12. Rule 12 - Process for Overview and Scrutiny Reports to be Considered by the Cabinet or Council

Any final report of Overview and Scrutiny Committees or Budget and Performance Panel will be forwarded 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. Rule 13 - Rights of Overview and Scrutiny Members to Documents

(a) The additional rights of members of Overview and Scrutiny Committees regarding access to documents are set out in the Access to Information Procedures Rule in **Part 3 Section 4** 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. Rule 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, Chief Executive 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

it is the duty of the persons referred to in paragraph 14 (a) above to attend, if so required.

(b) Where any member of the Cabinet, Chief Executive or Chief Officers are 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 Chief Officer in writing, giving at least five 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 Chief Officer concerned, will be given sufficient notice to allow for preparation of that documentation.

(c) Where, in exceptional circumstances, the Cabinet member or Chief Executive 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 Chief Officer, arrange an alternative date for attendance or, in the case of Chief Officers request a suitable replacement to be agreed by the Chief Executive.

15. Rule 15 - Attendance by Others

(a) The Chair of any 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 Overview and Scrutiny 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. Rule 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 where due diligence has not been followed, 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 a 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 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 email from a known or recognised source, by exactly five non-Cabinet members, not all of the same political group, of whom 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 ten 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 ten 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 ten 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 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 reconsidered no later than the next scheduled meeting of the Cabinet after the referral from Full Council. Following the reconsideration of the decision, the outcome must be publicised within two 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. Rule 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 publics 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. Rule 18 - Call-in Procedure

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

(a) The Councillors who have made the Call-in request (who shall be seated together) will outline the reasons for the Call-in;
(b) 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;
(c) Councillors who are signatories to the Call-in request will have the opportunity to question the decision-maker;
(d) Other members of the Overview and Scrutiny Committee will have the opportunity to question the decision-maker;

(e) At the discretion of the Chair, other Councillors present may have the opportunity to question the decision-maker;
(f) 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.
(g) The meeting then moves to forming a decision in accordance with the Council Procedure Rules.

19. Rule 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:

(a) the Councillor has made all reasonable efforts to resolve the matter via direct liaison with Council Officers and /or relevant partners; and
(b) 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;
(c) the issue of concern has a significant impact on a part or the whole of that Councillor's Ward; and
(d) 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 CCfA. 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 CCfA 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. Rule 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. Rule 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 CCfA (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 Committees conduct investigations, the Chair 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 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 Committee shall prepare a report for submission to Cabinet, Council, external body or partnership, as appropriate, and shall make its report and findings public.

22. Rule 22 - Matters within the remit of more than one Overview and Scrutiny Meeting

Where a matter for consideration by an Overview and Scrutiny Committee 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. **RULE 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. **RULE 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. **RULE 3 - RIGHTS OF THE PUBLIC TO ATTEND MEETINGS**

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

4. **RULE 4 - NOTICES OF MEETINGS**

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/or on the Council's website.

5. **RULE 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/or 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 Senior Manager Democratic Support shall make each such report available to the public as soon as the report is completed and sent to Councillors.

6. **RULE 6 - SUPPLY OF COPIES TO THE PUBLIC**

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. **RULE 7 – PUBLIC 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. RULE 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. 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 email from democracy@lancaster.gov.uk

9. RULE 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 there.

10. RULE 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 Lancaster and Morecambe Town Halls, setting out why the meeting is urgent and cannot reasonably be deferred.

10.03 **Confidential Information – Requirement to Exclude the 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 the 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 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)	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. Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under: (a) the Companies Act 2006 (b) the Friendly Societies Act 1974 (c) the Friendly Societies Act 1992 (d) the Co-operative and Community Benefit Societies Act 2014 (e) the Building Societies Act 1986 (f) the Charities Act 2011
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	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.

which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	
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.

11. RULE 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 their 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. RULE 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 6 (notice of and summons to meetings).

13. RULE 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. RULE 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. RULE 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. RULE 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. RULE 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 RULE 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. RULE 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 Members of the Council

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

19.03 Other Material relating to business transacted

Subject to 19.04 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.

19.04 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 19.03 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.

19.05 Nature of Rights

However, Council has resolved that all members of the Council should have access to all exempt reports, background papers and minutes save where the report, background paper or minute relates to an individual officer (other than the Chief Executive or a Chief Officer), an

individual Member of the Council, or an individual third party, or where the Member seeking to attend has a disclosable pecuniary interest or another interest within paragraph 12(1) of Section 2 of Part B of the Code of Conduct, in the item of business.

19.06 **Confidential Information**

Councillors must not disclose confidential information or exempt information. Councillors must only use information in accordance with the law, Regulations on Disclosure and Confidentiality including those referred to at the end of this Section and the Councillors' Code of Conduct in **Part 4**.

20. RULE 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 ten 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:

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

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 Procedure 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 (section 3). This includes (s.3(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 that local authorities are expected to follow.

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 Council which are exercisable from time to time by Officers of the Council 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 provision in respect of executive decisions and **Key Decisions**.

5. 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 Joint Negotiating Committee for Chief Officers of Local Authority Constitution and Conditions of Service, which deals with official conduct of Chief Officers and the National Joint Council for local authority employees Green Book which covers the pay and conditions for other officers.

PART 3 – SECTION 5

Budget and Policy Framework Procedure Rules

1. **Rule 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. **Rule 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, Cabinet submits to the Council for its consideration in relation to the following financial year—

i. estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ, of the Local Government Finance Act 1992;
ii. estimates of other amounts to be used for the purposes of such a calculation;
iii. estimates of such a calculation; or
iv. amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and if, following consideration of those estimates or amounts the Council has any objections to them, it must provide the Leader with a period of at least five working days to:

i. submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for

any amendments made to the estimates or amounts, to the Council for the Council's consideration; or

ii. inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

The Council 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. **Rule 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 paragraph 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 of 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. **Rule 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 Full 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. **Rule 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 7** of this Constitution.

6. **Rule 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 Section 7** of this Constitution.

7. **Rule 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. RULE 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 them.

(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. RULE 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. RULE 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 People and Organisational Development 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 People and Organisational Development 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. RULE 4 - APPOINTMENT AND DISMISSAL OF CHIEF OFFICERS

(a) The appointment of a Chief Officer will be made by the People and Organisational Development 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 People and Organisational Development Committee. The Committee when dismissing a Chief Officer must include at least one member of the Cabinet.

5. RULE 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:

i. no appointment to any post allocated to a political group shall be made until the Council has allocated a post to each of the groups which qualify for one;

ii. there shall be no allocation of a post to a political group which does not qualify for one;

iii. the allocation of more than one post to any one political group shall be prohibited; and

iv. any appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. RULE 6 - CONSULTATION WITH CABINET MEMBERS

No offer of an appointment or notice of dismissal in relation to 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 until:

(a) the appointor or dismissor has notified the Chief Officer Governance 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 Chief Officer Governance 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 Chief Officer Governance that neither he/she nor any other member of the Cabinet has any objection to the appointment or dismissal;

(ii) the Chief Officer Governance 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. RULE 7 - INTERPRETATION

In this paragraph and in paragraph 8 below:

(a) “the 2011 Act” means the Localism Act 2011;

(b) "Chief Officer" includes a Deputy Chief Officer,

(c) "Chief Finance Officer", "disciplinary action", "Head of Paid Service" and "Monitoring Officer" have the same meaning as in regulation 2 of the Local Authorities (Standing Order) (England) Regulations 2001;

(d) "independent person" means a person appointed under section 28(7) of the 2011 Act;

(e) "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;

(f) "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 Council on matters relating to the dismissal of a relevant Officer (the Independent Persons Panel);

(g) "relevant meeting" means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant Officer; and

(h) "relevant Officer" means the Chief Finance Officer, Head of Paid Service or Monitoring Officer, as the case may be.

8. RULE 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 Rule 8 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 sub-paragraph (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 iauthority 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 Full 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. RULE 9 - DISCIPLINARY ACTION – HEAD OF PAID SERVICE AND CHIEF OFFICERS

Subject to Rule 8 above, the People and Organisational Development 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 People and Organisational Development 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 People and Organisational Development Committee. That Committee must include at least one member of the Cabinet.

(d) In accordance with the Model Disciplinary Procedure in the JNC Handbook for Chief Executives, Investigation and Disciplinary Committee meetings shall be convened by the Monitoring Officer (in consultation with the Chair of the People and Organisational Development Committee) and the Monitoring Officer shall, in consultation with the Chair of the People and Organisational Development Committee, filter out and deal with allegations that are clearly unfounded, trivial or can best be dealt with under some other procedure. Where allegations involve the Monitoring Officer, this role shall be fulfilled by the Chief Executive.

10. RULE 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 its Committees 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 Council 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 Council; or

(iii) otherwise interfere with the making of such an appointment or the taking of disciplinary action.

PART 3 – SECTION 7

Financial Procedure Rules

1. Introduction

1.1. Scope and Objectives

1.1.1. The overriding objective of the Financial Procedure Rules is to provide a clear and effective framework for managing the Council's financial affairs, as a contribution to high standards of governance, probity and public accountability. The Rules set the foundations for all aspects of the Council's financial practices, directing and guiding elected Members and Officers in their financial duties, and they play a key role in securing a positive external audit opinion on the Council's accounts and arrangements to secure value for money.

1.1.2. The Financial Procedure Rules are an integral part of the Council's Constitution, to establish the Council's financial governance arrangements. In case of any conflict, other parts of the Constitution take precedence over these Procedure Rules, unless any legislative or regulatory requirement determines otherwise.

1.1.3. These Procedure Rules are grouped into five main areas:

SECTION 2. FINANCIAL STANDARDS

SECTION 3. FINANCIAL PLANNING & ANNUAL BUDGET SETTING

SECTION 4. MANAGEMENT OF BUDGETS

SECTION 5. FINANCIAL RECORDS AND REPORTING

SECTION 6. CONTROL OF RESOURCES

1.1.4. The Procedure Rules apply to every Member and Officer of the Authority and anyone acting on its behalf.

1.1.5. In particular, the Procedure Rules identify the financial responsibilities of full Council, the Cabinet and Overview and Scrutiny, the Chief Executive, the Monitoring Officer, the Section 151 Officer and other Chief Officers.

1.1.6. The Procedure Rules are subject to review at least annually, or sooner if circumstances warrant it.

2. Financial Standards

2.1. General Principles

2.1.1. The Financial Procedure Rules mirror and support the expected standards of conduct set out in both the Council's Code of Conduct for Employees and the Members' Code of Conduct. All of these documents seek to ensure the highest standards of conduct and to protect the public, the Council and its elected Members and employees.

2.1.2. Section 10 of the Code of Conduct for Employees (Use of Financial Resources) sets out the overall expectations of employees in managing finances, the expected standard being expressed as *"Officers 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."*

2.1.3. In relation to financial matters, Officers should also be aware of the following sections in the Code of Conduct for Employees:

- Corruption (section 2);
- Standards of conduct (section 3);
- Personal interests and personal relationships (section 6);
- Gifts and hospitality (section 8);
- The selection of developers, consultants or contractors (section 11);
- Separation of roles during tendering (section 12)

2.1.4. All elected Members and Officers have a duty to abide by the highest standards of probity, or "correctness", in dealing with financial issues.

2.1.5. It follows therefore that all elected Members and Officers have a general responsibility for taking reasonable action to provide for the security of the assets and any other resources under their control, and for ensuring that the use of these resources is legal, properly authorised, in accordance with relevant policies and other internal controls, and provides value for money.

2.2. Legislative Requirements

2.2.1. The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Authority. The primary source (that informs the title) of this Officer's duties is Section 151 of the Local Government Act 1972, which requires the Authority to *"…make arrangements for the proper administration of their financial affairs and … secure that one of their Officers has responsibility for the administration of those affairs."*

2.2.2. Section 114 of the Local Government Finance Act 1988 requires the Section 151 Officer to report to full Council and the external auditors if the Authority or one of its Officers:

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

2.2.3. Section 114 of the 1988 Act also requires the Section 151 Officer to nominate properly qualified Member(s) of staff to deputise should he or she be unable to perform the duties under section 114 personally, and also requires the Authority to provide the Section 151 Officer with sufficient staff, accommodation and other resources to carry out the duties under section 114.

2.2.4. The Section 151 Officer has nominated the Accountancy Manager to act as his deputy.

2.2.5. The Local Government Act 1999 places a 'Best Value' duty on the Authority to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness".

2.2.6. The Local Government Act 2000 and the more recent Localism Act 2011 determine the governance arrangements available to local authorities, (i.e. Mayor/Leader and Cabinet or Committee based systems), and establish where accountability lies for money and other resources. Under the Council's arrangements, the Cabinet is responsible for proposing the policy framework and budget to full Council and ultimate financial accountability lies with full Council.

2.2.7. The Local Government Finance Act 1992, the Local Government Act 2003, and the Localism Act 2011 set out various provisions and powers in the following areas, amongst others:

- Capital financing, borrowing and investment (treasury management);
- Proper practices in accounting;
- Budget calculations, monitoring and the maintenance of reserves;
- Non-domestic rates and Council Tax; and
- Council housing finance (the Housing Revenue Account).

2.2.8. The Accounts and Audit Regulations 2015 requires the Authority to make arrangements to ensure that it has a sound system of control which:

- facilitates the effective exercise of its functions and the achievements of its aims and objectives;
- ensures that the financial and operational management of the authority is effective; and
- includes effective arrangements for the management of risk.
- an adequate and effective internal audit in accordance with proper practices.

2.2.9. The 2015 Regulations also build on the Section 151 Officer's responsibilities by making him or her responsible for the administration of the financial affairs determining and maintaining the Authority's accounting and supporting record, and the financial control systems.

2.2.10. The Local Audit and Accountability Act 2014 sets out the framework for external audit of local authorities. It replaces the provisions of the Audit Commission Act 1998.

2.2.11. From 2018-19, local government bodies can appoint their own auditors. However, the majority of local bodies have opted into a collective procurement arrangement, operated by PSAA in its role as 'appointing person' which will continue to appoint local auditors.

2.2.12. The above sections outline the key legislative provisions that form the backbone of the local government financial framework, which is supported in turn by numerous other legislative and regulatory requirements.

2.3. Proper Practices

2.3.1. Proper practices in accountancy[1] and treasury management[2], as provided for in the Local Government Act 2003, are those issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).

2.3.2. The Authority has adopted professional best practice standards regarding the role of the Chief Financial Officer[3] (or Section 151 Officer) as the benchmark for its organisation's arrangements. Accordingly, the Section 151 Officer:

- is a key Member of the Strategic Leadership Team, helping it to develop and implement strategy and to resource and deliver the organisation's strategic objectives sustainably and in the public interest;
- must be actively involved in, and able to bring influence to bear on, all material business decisions to ensure that immediate and longer term implications, opportunities and risks are fully considered, and align with the Authority's financial strategy; and
- must lead the promotion and delivery by the whole Authority of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.

2.3.3. Proper practices in internal audit[4] as provided for in the Accounts and Audit Regulations 2015 are those adopted and issued by CIPFA.

2.3.4. The Authority has also adopted professional best practice standards regarding the role of the Head of Internal Audit[5] (for the Council, this is currently delivered by Mersey Internal Audit Agency).

.2.3.5. Provisions relating to the proper practices and the role of the Internal Audit are incorporated in the Internal Audit Charter, which is approved by the Council's Audit Committee.

2.4. Responsibilities for Financial Standards and the Financial Regulations

2.4.1. Establishing and maintaining the highest possible financial standards requires clarity in roles and responsibilities and the understanding and commitment of everyone involved. The Financial Procedure Rules are the documentary cornerstone of the Council's financial management culture, setting out the fundamental rules, responsibilities and expectations.

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[1] '*Code of Practice on Local Authority Accounting in the United Kingdom', CIPFA*

[2] '*Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes', CIPFA 2021*

[3] '*Statement on the Role of the Chief Financial Officer in Local Government', CIPFA 2016*

[4] *'Public Sector Internal Audit Standards'* and *'Local Government Application Note' CIPFA.*
[5] *'Role of the Head of Internal Audit in Public Sector Organisations' CIPFA*

2.4.2. In accordance with the Accounts and Audit Regulations 2015, the Audit Committee may, on behalf of full Council, give any instructions regarding the Financial Procedure Rules to the Section 151 Officer as may be appropriate.

2.4.3. In accordance with legislative requirements and proper practice standards, the Section 151 Officer is responsible for:

- reviewing, updating and promoting the Financial Procedure Rules;
- reporting any updates made to Procedure Rules to the Audit Committee for its subsequent consideration and endorsement;
- developing, approving the adoption of, and promoting supporting instructions, procedures and guidance;
- developing and actively promoting financial skills and competencies, assessing training needs at a corporate level and ensuring that appropriate training is made available to meet all identified needs; and
- providing relevant, appropriate impartial advice that relevant parties must have regard to.

2.4.4. The Section 151 Officer may delegate certain responsibilities to other appropriate responsible Officers, subject to any legal or other regulatory constraints.

2.4.5. Every elected Member and Officer of the Authority and anyone acting on its behalf is required to abide by the Procedure Rules and act in accordance with the supporting instructions, guidance, systems and procedures. That is unless, as part of joint working, a partner organisation's Procedure Rules or equivalent have been formally adopted, following consideration by the Section 151 Officer.

2.4.6. Chief Officers are responsible for ensuring that all Officers in their services have access to, and are aware of the existence and content of, the Authority's Procedure Rules and other internal regulatory documents and that they comply with them.

2.4.7. Chief Officers should maintain clear, accessible records of where decision making has been delegated to members of their staff, including seconded staff, taking account of any appropriate legislative, other external or internal constraints, and the advice of the Section 151 Officer. In circumstances where decisions have been delegated or devolved to other responsible Officers, references in the Procedure Rules to the Chief Officer should be read as referring to other such responsible Officers.

2.4.8. Chief Officers are responsible for identifying training needs for the staff within their service areas, taking advice from the Section 151 Officer as appropriate.

2.5. Procedure for Handling Breaches of the Regulations

2.5.1. Chief Officers are responsible for reporting to and consulting with the Section 151 Officer on any breach of Procedure Rules and for taking appropriate remedial action, including disciplinary action where necessary.

2.5.2. The Section 151 Officer is responsible for reporting, as appropriate, breaches of the Financial Procedure Rules to the Council and/or to the Cabinet and/or Audit Committee Members.

3. Financial Planning and Annual Budget Setting

3.1. What this covers:

3.1.1. In general terms, financial planning is the task of determining whether the Authority can afford its strategic goals and objectives, and what might need to change in order for them to be affordable, achievable and financially sustainable. It comprises the policies, practices and procedures that the Council will adopt to direct and manage its application of financial resources in the long, medium and short-term.

3.1.2. For the Council, the key financial planning elements are the Medium Term Financial Strategy (MTFS) and the Budget.

3.1.3. In essence, the Budget is the financial expression of the Authority's plans and policies.

3.2. Why this is important:

3.2.1. The Authority is a complex organisation responsible for delivering a wide variety of services, operating in an ever changing environment, but typically it cannot afford or deliver all that it might want to. It needs to forecast, prioritise and challenge its allocation of resources therefore, in view of its Corporate Plan and service business plans, to help ensure that any objectives set are achievable from a financial point of view.

3.2.2. Sound financial planning is fundamental to the Council being able to fulfil its legislative duties (§2.2) and satisfy required professional standards (§2.3) with regard to the efficient and effective management of public funds. Part 3 of the Council's Constitution sets out other requirements and controls regarding budgetary matters. In overall terms, it is unlawful for an Authority to budget for a deficit.

3.2.3. More specifically, in terms of capital expenditure (on assets with a long-term value to the Authority), this helps shape the way services are delivered over that long term and creates financial commitments for the future in the form of financing costs and revenue running costs. The capacity of the Authority to finance capital is constrained. This means that capital expenditure and financing plans also need to form part of overall financial planning, and must be carefully prioritised in order to maximise the benefit of scarce resources.

3.2.4. Furthermore, as part of the planning process it is important for the Authority to decide the level of provisions, reserves and balances it wishes to maintain before it determines the level of council tax. Provisions, reserves and balances are maintained as a matter of prudence, enabling the Authority to provide for unexpected events and recognised future commitments, and thereby helping to protect it from overspending.

3.3. Components

3.3.1. **Financial Strategy (Known as the Medium Term Financial Strategy or MTFS)**

3.3.1.1. The MTFS considers the Council's financial outlook and its risk profile, setting out how it will seek to balance its corporate and financial objectives and manage the key financial risks it faces.

3.3.1.2. The MTFS is a key element of the Council's budget and policy framework, which is proposed by the Cabinet and approved by full Council.

3.3.1.3. In approving the MTFS, Council sets the financial strategy and boundaries within which Members and Officers must operate.

3.3.1.4. The MTFS will therefore contain any limits/parameters/other constraints within which the schemes for the treatment of virements between budget headings and year end under- and overspendings are to operate.

3.3.1.5. The Section 151 Officer is responsible for preparing a draft MTFS on a five-yearly rolling basis, for consideration by the Cabinet, before submission to full Council.

3.3.2. **Annual Budget Process**

3.3.2.1. Format of the Budget

a) The general format of the budget will be determined by the Section 151 Officer in accordance with legislative/regulatory requirements and having regard to any specific needs of Cabinet or full Council. The draft budget will include resources allocated to different services and projects, proposed taxation levels and any contingency funds and will cover the following:

- The General Fund annual revenue budget and ten-year capital programme.
- Housing Revenue Account (HRA) annual revenue budget (for Council Housing) and its ten-year capital programme.
- Collection Fund accounts.
- Any other statutory accounts.

3.3.2.2. Budget Preparation and Resource Allocation

a) In approving the MTFS, the Council sets the budget methodology for the period covered.

b) The Cabinet is responsible for providing the direction to enable full budget and policy framework proposals to be developed for consideration by full Council.

c) The Section 151 Officer is responsible for:

- issuing elected Members and Officers with budget preparation guidelines in accordance with the MTFS;
- ensuring that a budget covering the elements in §3.3.2.1 is prepared on an annual basis, and providing due support;
- developing, maintaining and advising on resource allocation processes that ensure due consideration is given to the budget and policy framework and associated options arising;
- advising Cabinet and full Council on:
  - prudent levels of provisions, reserves and balances for the Authority;
  - the robustness of the estimates in the budget;
  - the affordability of spending plans, with particular regard to capital investment;
  - any legal or Governmental policy constraints on the levels of council tax; and
  - expected levels of external funding, including the retention of business rate income, and any constraints regarding their use.

d) Chief Officers are responsible for developing budget estimates that reflect proposed service plans and have been prepared in line with guidelines issued by the Section 151 Officer, and for developing budget and policy framework options in line with Cabinet's directions.

3.3.2.3. Annual Budget Approval

a) Cabinet is responsible for proposing the draft MTFS and budget to full Council.

b) Full Council is responsible for approving the MTFS and budget. Full Council may amend the budget or ask the Cabinet to reconsider it before approving it.

4. Management of Budgets

4.1. What this covers:

4.1.1. Management of budgets covers financial responsibilities and accountabilities in relation to the ongoing running of the Authority. It includes arrangements for:

- the incidence, monitoring, review and internal management reporting of budget activity; and
- procedures to enable the in-year variation of budgets (i.e. virements) and the treatment of year end under- or overspendings.

4.2. Why this is important:

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

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

4.3. Components

4.3.1. **Managing Income and Expenditure: Budgetary Control**

4.3.1.1. The Section 151 Officer is responsible for providing appropriate financial information and advice to enable budgets to be monitored and controlled effectively. This includes maintaining an up to date, detailed approved budget during the year, and agreeing the levels at which budgetary control is to be exercised. He or she must monitor the overall position and report to Cabinet and the Budget and Performance Panel on a regular basis, and Council as necessary.

4.3.1.2. Chief Officers and any Officer designated by them as a Responsible Spending Officer are:

a) authorised to incur expenditure in accordance with the revenue estimates that make up the approved budget, subject to any further specific conditions or requirements that may be attached. In short, it is the existence of an approved budget that confers authority to spend;

b) responsible for collecting budgeted income, and maximising such income in accordance with relevant policies;

c) responsible for the accurate recording of transactions at a detailed level against relevant cost centres and budgets;

d) responsible for agreeing in-year virements within delegated limits, in consultation with the Section 151 Officer; and

e) responsible for achieving value for money in the use of resources, both collectively at a corporate level, and individually within their own service areas.

4.3.1.3. In summary, Chief Officers are responsible for controlling income and expenditure within their area and for monitoring performance, taking account of financial information provided by the Section 151 Officer. They should report as necessary on variances within their own areas, take appropriate action to avoid exceeding their budget allocation, and alert the Section 151 Officer to any problems.

4.3.1.4. Nothing in these Procedure Rules prevents the Chief Executive, the Section 151 Officer or duty Senior Emergency Officer from authorising expenditure essential to meet any immediate needs created by an emergency threatening life or limb, or related to major structural damage threatening the fabric of a building. If such a situation arises, the actions must be reported by the relevant Officer to the next Cabinet meeting (for referral on to Council if the consequences fall outside of the budget and policy framework).

4.3.2. **In-Year Budget Changes**

4.3.2.1. Full Council is responsible for:

- approving any proposed budget change that falls outside of the budget and policy framework, normally on referral from Cabinet; and
- through the budget virement scheme as set out in §4.3.3 and included within the MTFS, setting the limits and constraints on the extent to which the Cabinet and/or Officers may reallocate budget funds from one service to another; and
- through the carry forward of year-end over- and underspendings scheme as included within the MTFS, setting the limits and constraints on the extent to which the Cabinet and/or Officers may reallocate budget funds from one year to another (for revenue or capital).

4.3.2.2. Within the limits and constraints set by full Council, Cabinet is responsible for:

- giving prior approval for any proposed budget change that involves the transfer or redirection of resources on an ongoing basis from one service, function or activity to another; and
- giving prior approval for any proposed budget change that would deliver in-year savings above the key decision thresholds.

4.3.2.3. The Section 151 Officer is responsible for administering the schemes for the treatment of year end under or overspendings and the virement scheme, within the parameters set by full Council in the MTFS.

4.3.2.4. The Section 151 Officer is responsible for advising Cabinet, full Council and Officers on whether any particular circumstance or proposal falls within or outside of the approved budget framework, and for challenging and supporting Members and Officers in their decision-making, especially on affordability and value for money. He or she is responsible for advising on the financial thresholds for key decisions, where there is a requirement to do so.

4.3.2.5. The Section 151 Officer has authority to update the approved budget for any changes that are in accordance with the budget and policy framework and are either:

- budget/cost neutral (at least) and either below the Council's key decision threshold, or above the key decision threshold, but having no material operational impact and no significant future resource implications. Note that this includes funding matters under §4.3.3.4; or
- to reflect any funding awarded automatically to the Council (that is, without bidding) for the provision of services or for other purposes, or
- as a result of the properly authorised decisions of Council, its Committees, the Cabinet, or as delegated through the approved Officer Scheme of Delegation. Note that this includes funding matters under §4.3.4.1 and §4.3.4.2; or
- to reflect the outcome of any buy or lease options appraisals undertaken regarding the procurement of vehicles, plant and equipment, or associated financing decisions.

4.3.2.6. The Section 151 Officer will report significant changes retrospectively, through normal financial monitoring and reporting arrangements.

4.3.2.7. Chief Officers are responsible for:

a) consulting with the Section 151 Officer and obtaining relevant approval/s on any matter liable to affect the Authority's finances, before any commitments are incurred.

b) ensuring that relevant Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Section 151 Officer.

4.3.3. Virements

4.3.3.1. The term covers in-year transfers between budget headings.

4.3.3.2. The Scheme of virement applies to revenue and capital budgets, and it allows only in-year, non-recurring budget adjustments.

4.3.3.3. Virement must not increase the Council's net budget; the first priority for any virements must be to address any expected budget overspendings.

4.3.3.4. Chief Officers (or their nominated representatives) may approve virements up to any limit within the specific cost centres in their control (or the equivalent level as set out in the budget book), as long as the virement does not substantially change how the activity is to be delivered, or have adverse impact on performance. For example, high staff turnover in a service area may result in an interim need to buy in additional external support or services. This would require a virement from the salaries budget, into the relevant supplies & services budget, as long as the virement does not increase the overall net cost for the service area.

4.3.3.5. With the agreement of the s151 Officer, Chief Officers (or their nominated representatives) may approve virements in budgets under their control, between differing cost centres (or the equivalent level as set out in the budget book), subject to the following limits:

Delegated limit	**2024/25**
Total virement on any **expenditure** heading in any one financial year must not exceed:	£10,000
Total virement on any **income** heading in any one financial year must not exceed:	£10,000

4.3.3.6. Proposed virements above these limits, that otherwise fall within the approved budget and policy framework, must be considered by Cabinet Members (relevant Individual Cabinet Member/s for any virements up to key decision threshold, and full Cabinet for virements above the key decision threshold).

4.3.3.7. Virement is not possible where the impact would fall outside of the policy framework.

4.3.4. **External Funding Arrangements**

4.3.4.1. Council is responsible for approving any external funding bid that falls outside of the budget and policy framework, normally on referral from Cabinet.

4.3.4.2. Cabinet is responsible for approving any external funding bid that is above the key decision threshold, and/or involves the redirection of resources between service areas, functions or activities on an ongoing basis, but is otherwise within the budget and policy framework.

4.3.4.3. Separately, where a proposal involves the Authority acting as the "accountable body" for a partnership or joint venture (often, but not always, involving external funding), the approval lies with Cabinet, with referral on to Council if outside of the budget and policy framework.

4.3.4.4. Chief Officers have authority, with the agreement of the Section 151 Officer, to express an interest in, bid for, and accept external funds where the total value of the bid does not exceed the Council's key decision thresholds and the proposal is (at least) budget neutral, subject to due diligence being demonstrated.

4.3.4.5. Chief Officers have authority to submit expressions of interest for external funding above key decision thresholds:

- subject to consultation with the Section 151 Officer and the relevant Portfolio holder, and additionally
- the Leader and the Chief Executive, where the expression of interest falls outside of the Budget and/or Policy framework.

4.3.4.6. For clarity, an expression of interest in itself does not constitute a key decision.

4.3.4.7. Should any such expression of interest be successful, §4.3.4.1 and §4.3.4.2 will apply as normal (as will key decision notice requirements).

4.3.4.8. Chief Officers have authority to accept funding bids approved by Cabinet and/or Council, subject to due diligence being completed and with the written consent of the Section 151 Officer.

4.3.4.9. Chief Officers have responsibility for notifying the Section 151 Officer of all expressions of interest, bids, awards, claims and all other external funding matters. Additionally, they are responsible for liaising with the Section 151 Officer as necessary where it is proposed that the Authority acts as accountable body in relation to any proposed partnership or other joint venture.

4.3.4.10. All the above are subject to any alternative or additional authorisation as may be required by the external funding provider. In these instances, the Section 151 Officer must have prior notice of such requirements.

4.3.5. **Provisions, Reserves and Balances**

4.3.5.1. Reserves and balances are to be established and operated in accordance with the Provisions and Reserves Policy, proposed by Cabinet and approved by Council as part of the MTFS.

4.3.5.2. The Section 151 Officer is responsible for advising the Authority on the level of reserves and balances held and for ensuring that clear protocols are in place for their establishment and use.

4.3.5.3. In accordance with proper practices[6], the Section 151 Officer has full authority to establish, manage and maintain appropriate financial provisions, as reflected in the approved Provisions and Reserves Policy.

[6] '*Code of Practice on Local Authority Accounting in the United Kingdom', CIPFA*

5. Financial Records and Reporting

5.1. What this covers:

5.1.1. Financial records and reporting covers the formal policies, records and documents that the Council is required to maintain, and the reports and returns it is required to produce for submission or publication to its external stakeholders. It includes the Council's accounting policies as well as its formal accounts, financial returns and claims and other reports required by the Government and/or external partners and funding bodies. These requirements are linked to the Government's drive to increase transparency.

5.2. Why this is important:

5.2.1. The Authority is accountable for millions of pounds worth of public money. Producing sound, accessible information supports the accountability, from the perspectives both of external stakeholders and the Authority's own.

5.2.2. The Authority has a statutory responsibility to prepare, approve and publish its accounts in accordance with proper practices[7] and must ensure that the accounts present fairly the Authority's operations during the year. Other regulations and proper practices also exist to ensure that financial information is kept and presented on a consistent basis, to provide transparency and openness, and to aid comparison with other organisations.

5.3. Components

5.3.1. **Accounting Policies, Records and Returns**

5.3.1.1. The Section 151 Officer is responsible for:

a) selecting accounting policies and ensuring that they are applied consistently;

b) the operation of the Authority's accounting controls, the form of accounts and the supporting financial records;

c) advising on the extent and format of asset records to be maintained by the Authority in order to meet all necessary accounting requirements;

d) advising on and determining the establishment and operation of service accounting structures, cost centres and trading accounts;

e) advising on and determining the accounting and any supporting financial arrangements to be adopted where the Council acts as the "accountable body" in relation to a partnership or joint venture; and

f) Determining and operating any in-year external reporting arrangements as may be required or recommended under regulation or proper practices.

5.3.1.2. Chief Officers are responsible for ensuring that established accounting policies and accounting control systems are followed and necessary accounting and asset records are maintained.

[7] '*Service Reporting Code of Practice for Local Authorities'* CIPFA (published annually)

5.3.2. **Annual Statement of Accounts**

5.3.2.1. Full Council has delegated its responsibility for approving the annual statement of accounts to the Audit Committee, in accordance with the Accounts and Audit Regulations 2015.

5.3.2.2. The Section 151 Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with proper practices[8] and for meeting requirements relating to International Financial Reporting Standards and the preparation of "Whole of Government Accounts".

5.3.2.3. Chief Officers are responsible for ensuring that relevant Officers liaise effectively with their accountant(s) to enable the efficient and accurate compilation of the statement of accounts.

5.3.3. **Accounting Returns and Grant Claims**

5.3.3.1. The Section 151 Officer is responsible for the preparation and submission of any other public financial reporting or financial returns required by the Government.

5.3.3.2. Chief Officers are responsible for ensuring that relevant Officers liaise effectively with their accountant(s) and the Section 151 Officer in compiling and submitting grant claims and funding returns.

5.3.3.3. The Section 151 Officer has general responsibility for approving the content and accuracy of grant claims and other funding returns, and signing off such documents, subject to any alternative or additional authorisation as may be required by the agency providing the funding.

[8] *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice'* (CIPFA/LASAAC)

6. Control of Resources

6.1. What this covers:

6.1.1. Control of resources covers the principles, processes and systems established by the Council to govern its activities and protect its assets and financial well-being. It includes:

- Treasury Management and banking arrangements for the safeguarding and management of the Council's monetary assets;
- the establishment and operation of other secure and reliable financial systems;
- arrangements for managing risk, including insurance;
- the maintenance of a sound system of governance;
- arrangements for effective independent review; and
- arrangements to manage and minimise the threats from fraud, corruption, and other forms of financial crime.

6.1.2. Effective treasury management is essential not only to safeguard the Authority's monetary assets and interests, but also to provide support towards the achievement of its business and service objectives. The Authority defines its Treasury Management activities as: *"The management of the authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks".*

6.1.3. The Authority operates a wide range of financial systems and procedures falling within the following general areas/functions:

a) Income management (including both cash and credit income);

b) Ordering and paying for work, goods and services;

c) Payments to employees and elected Members (including pensions);

d) Welfare payments;

e) Accounting (including Trading Accounts, Business Units and Trust Funds);

f) The management of, and accounting for, physical assets, including land, vehicles, plant and machinery, and stocks; and

g) Taxation.

6.1.4. These Financial Procedure Rules are supported by an extensive catalogue of policy, instructional, guidance and training documents covering the detailed operation of the Authority's financial systems and procedures.

6.1.5. Risk is defined as *'An uncertain event that, should it occur, will have an effect on the council's objectives and/or reputation. It is the combination of the probability of an event (likelihood) and its effect (impact)"* and the Council defines risk management as *"The systematic application of principles, approach and processes to the identification, assessment and monitoring of risks".*

6.1.6. Risk management (including insurance) is therefore concerned with those arrangements and practices aimed at identifying and managing the threats (and opportunities) which could influence the Council's ability to achieve its strategic and operational objectives and deliver value for money, including the following:

- Strategic or business risks;
- Business continuity;
- Health and Safety; and
- Project management.

The Council separates its risk into three categories: Corporate Strategic Risks, Operational/Service Risks, and Project Risks.

6.1.7. Sound systems of governance and internal control are essential in enabling the Authority to set and achieve its aims and objectives for the district. The Authority defines its own governance standards in its Code of Corporate Governance.

6.1.8. Internal Audit and External Audit, which are both required by legislation, provide an essential element of independent review of the Authority's financial management, governance and internal control arrangements.

6.1.9. The Council is committed to protecting itself and the public from all forms of fraud, theft, corruption and bribery, including any irregularity and the improper use or misappropriation of the Council's property or resources, and has accordingly put arrangements in place to combat these threats.

6.2. Why this is important:

6.2.1. The Authority is a complex organisation with a wide range of activities. It therefore requires a clear and sound framework of governance and internal control to manage and monitor its progress towards strategic objectives, meet its statutory obligations and fiduciary duties, and protect its interests and assets.

6.2.2. In establishing and maintaining this framework, the Authority must have efficient and effective arrangements to:

a) identify and manage significant risks;

b) secure its assets;

c) provide an adequate and effective internal audit, in accordance with The Accounts and Audit Regulations 2015;

d) meet the requirements regarding external audit of the Authority's accounts, its systems of governance and its arrangements for securing value for money;

e) address the threats from potentially fraudulent or corrupt activity; and

f) ensure that due diligence is performed in the arrangement and execution of all financial transactions, contracts and negotiations.

[9] Due diligence is defined as: *"The measure of prudence, responsibility, and diligence that is expected from, and ordinarily exercised by, a reasonable and prudent person under the circumstances*".

6.2.3. Sound financial systems and procedures are essential to an effective framework of accountability and control. The Council's services have many systems and procedures relating to the control of the Authority's assets, including purchasing, costing and management systems.

6.2.4. The Authority in general is increasingly reliant on technology for its financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. Systems and procedures need to contain controls to ensure that transactions are properly processed, enabling the prevention and prompt detection of any errors or potential fraud, and that records can be reconstituted if the need arises.

6.2.5. Linked to these points, the Section 151 Officer has statutory (see §2.2) and professional (see §2.3) responsibilities to ensure that the Authority's financial systems are sound.

6.3. Components

6.3.1. Treasury Management

6.3.1.1. The Authority has adopted proper practices in Treasury Management, as provided for in the Local Government Act 2003[10].

6.3.1.2. Accordingly, the Authority will create and maintain, as cornerstones for effective treasury management:

a) a treasury management policy statement, stating the policies and objectives of its treasury management activities; and

b) suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

6.3.1.3. Full Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, and an annual report after its close, in the form prescribed in its TMPs.

6.3.1.4. The Authority delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Section 151 Officer, who will act in accordance with the organisation's policy statement and TMPs and, if they are a CIPFA Member, CIPFA's *'Standard of Professional Practice on Treasury Management'*.

6.3.1.5. The Authority nominates the Budget and Performance Panel to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

6.3.1.6. The Section 151 Officer is responsible for:

a) arranging the borrowing and investments of the Authority in such a manner as to ensure:

- compliance with the CIPFA Code of Practice on Treasury Management and the Authority's treasury management policy statement, strategy and practices;
-
- [10] '*Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes', CIPFA 2021*

- that all investments of money are made in the name of the Authority or in the name of nominees approved by full Council;
- that all securities that are the property of the Authority or its nominees and the title deeds of all property in the Authority's ownership are held in the custody of the Chief Officer (Governance);
- that all borrowings are effected in the name of the Authority; and
- he/she acts as the Authority's registrar of stocks, bonds and mortgages and maintains records of all borrowing of money by the Authority.

b) reporting to full Council on treasury management as required by these Procedure Rules and in accordance with the Council's Treasury Management Practices;

c) making recommendations to Cabinet regarding treasury management policies, strategies and principles, and maintaining detailed treasury management practices accordingly; and

d) determining in liaison with the Chief Officer (Governance), and advising Chief Officers on, arrangements for the establishment and management of trust funds;

6.3.1.7. Chief Officers are responsible for ensuring that:

a) loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without appropriate Member approval, following consultation with the Section 151 Officer; and

b) where trust funds are held on behalf of third parties, they are managed in accordance with arrangements determined by the Section 151 Officer and Chief Officer (Governance).

6.3.2. **Banking**

6.3.2.1. The Section 151 Officer is responsible for:

a) the opening, closing and operation of any bank accounts considered necessary;

b) determining the provision, and rules for the security, operation and accounting, of any cash or bank imprest accounts required to meet minor expenditure on behalf of the Authority;

6.3.2.2. Chief Officers are responsible for ensuring that the instructions on banking issued by the Section 151 Officer are followed

6.3.3. **Financial Systems**

6.3.3.1. The Section 151 Officer is responsible for:

a) the development and operation of the Authority's accounting systems, to ensure that financial transactions are recorded as soon as, and as accurately as, reasonably practicable;

b) issuing instructions, and providing advice, guidance and training on the operation of financial systems and procedures for Officers, elected Members and others acting on the Authority's behalf. Such instructions must identify the duties of Officers, and division of responsibilities in relation to significant transactions;

c) ensuring that uncollectable amounts, including bad debts, are only written off with his or her (or their nominated representative's) approval, and

d) approving any changes proposed by Chief Officers to existing financial systems and procedures, or for the establishment of new systems.

6.3.3.2. Chief Officers are responsible for:

a) ensuring that a proper scheme of delegation has been established within their areas and is operating effectively;

b) the proper operation of financial processes in their own service;

c) ensuring that their staff receive relevant financial training that has been approved by the Section 151 Officer;

d) ensuring that 'due diligence' is performed by staff when conducting business involving financial transactions. In this context, due diligence is defined as: *"The measure of prudence, responsibility, and diligence that is expected from, and ordinarily exercised by, a reasonable and prudent person under the circumstances*";

e) obtaining the prior approval of the Section 151 Officer for any proposal to change existing financial systems (in whole or part) or to establish new systems (including any connections or interfaces with other systems).

6.3.4. **Risk Management**

6.3.4.1. The Audit Committee is responsible for approving the Authority's risk management policy statement and strategy and for reviewing their effectiveness, to help ensure that risk is appropriately managed;

6.3.4.2. The Chief Officer (Resources) is responsible for developing and promoting the Authority's risk management arrangements throughout the Authority, also to ensure their effectiveness in supporting high standards of corporate governance.

6.3.4.3. Chief Officers are responsible for implementing the Council's risk management strategies and policies.

6.3.5. **Insurance**

6.3.5.1. The Section 151 Officer is responsible for:

a) ensuring that corporate arrangements are in place through external insurance and internal self-funding to provide appropriate insurance cover;

b) reporting to the Cabinet on options regarding insurance arrangements, where appropriate;

c) effecting insurance cover corporately, through external insurance and internal funding; and

d) settling claims with claimants and/or insurers, in consultation with other Officers, as necessary.

6.3.5.2. Chief Officers are responsible for:

a) keeping timely, accurate and up to date information on insurable risks and for notifying the Section 151 Officer of the scope of insurance cover required operationally;

b) notifying the Section 151 Officer immediately of any loss, liability or damage that may lead to a claim against the Authority, together with any

information or explanation required by the Section 151 Officer or the Authority's insurers; and

c) consulting the Section 151 Officer and the Chief Officer (Governance) on the terms of any indemnity that the Authority is requested to give.

6.3.6. **Internal Controls and Corporate Governance**

6.3.6.1. The Section 151 Officer is responsible for advising on effective systems of internal control and for reporting regularly on their appropriateness.

6.3.6.2. Chief Officers are responsible for establishing and maintaining sound arrangements for planning, appraising, authorising and controlling their operations as a contribution to the Authority achieving a positive external audit opinion on its arrangements for securing value for money;

6.3.6.3. The Section 151 Officer, along with the Monitoring Officer and relevant Chief Officer(s), must consider the overall corporate governance arrangements and legal issues when developing contractual arrangements with external bodies. The Section 151 Officer, Monitoring Officer and relevant Chief Officer(s) must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

6.3.6.4. In accordance with the Accounts and Audit Regulations 2015, the Authority is required to conduct at least once each year a review of the effectiveness of its system of internal control; and

6.3.6.5. Following the review mentioned in §6.3.6.4 the Audit Committee is responsible for approving an annual governance statement prepared in accordance with proper practices[11].

6.3.7. **Internal Audit**

6.3.7.1. The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 2015 more specifically require that a "a relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes".

6.3.7.2. The Audit Committee is responsible for:

a) approving an Internal Audit Charter, drafted in accordance with proper practices[12] for internal audit, which sets out the organisational and operational arrangements under which internal audit will be managed and delivered;

b) approving and monitoring progress with Internal Audit plans;

c) reviewing Internal Audit findings and ensuring that appropriate action is taken; and

d) reviewing Internal Audit's performance, effectiveness and compliance with proper practices.

6.3.7.3. The Section 151 Officer is responsible for ensuring that an effective internal audit function is resourced and maintained.

[11] *'Delivering Good Governance in Local Government: Framework' CIPFA/SOLACE 2016*

6.3.7.4. The Internal Audit Manager is responsible for organising, managing and delivering an effective internal audit function in accordance with the approved Internal Audit Charter.

6.3.7.5. Chief Officers are responsible for ensuring that internal audit is enabled to operate efficiently and effectively in accordance with the approved Internal Audit Charter.

6.3.7.6. In accordance with the Accounts and Audit Regulations 2015, the Audit Committee is responsible for, at least once each year, conducting a review of the effectiveness of internal audit and for considering the findings of that review as part of the review of the system of internal control (see §6.3.6.4)

6.3.8. **External Audit**

6.3.8.1. The Local Audit and Accountability Act 2014 set up Public Sector Audit Appointments Ltd, which is responsible for appointing external auditors to each local authority in England and Wales. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.

6.3.8.2. The Audit Committee is responsible for:

a) commenting on processes for the appointment of the external auditor;

b) receiving, commenting on, and monitoring progress with the External Auditor's plans; and

c) receiving and commenting on all scheduled outputs from the External Auditor's work, including the annual Audit Letter.

6.3.8.3. The Section 151 Officer is responsible for:

a) ensuring that external auditors are given access at all reasonable times to premises, personnel, documents and assets that they consider necessary for the purposes of their work;

b) ensuring there is effective liaison between external and internal audit; and

c) working with the external auditor and advising full Council, Cabinet and Chief Officers on their responsibilities in relation to external audit.

6.3.8.4. Chief Officers are responsible for ensuring that:

a) external auditors are given access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work; and

b) ensuring that all records and systems are up to date and available for inspection.

6.3.9. **Preventing Fraud and Corruption**

6.3.9.1. The Section 151 Officer is responsible for:

a) the development and maintenance of an anti-fraud and anti-corruption policy;

b) maintaining adequate and effective internal control arrangements; and

c) ensuring that all suspected irregularities are reported to the Internal Audit Manager, and the Head of Paid Service, any irregularity with a significant impact is reported to the Audit Committee and any other bodies as appropriate.

6.3.9.2. Chief Officers are responsible for ensuring that:

a) all suspected irregularities are dealt with in accordance with approved response plans;

b) the Authority's disciplinary procedures are instigated where the outcome of action taken in response to a suspected irregularity indicates improper behaviour; and

c) ensuring that Officers' pecuniary interests are recorded in the register of interests maintained by Democratic Services.

6.3.9.3. The Internal Audit Manager is responsible for ensuring that:

a) appropriate response plans, including arrangements to consult with all relevant Officers, are in place to deal with any reported or suspected irregularity; and

b) where sufficient evidence exists to believe that a criminal offence may have been committed, the police are consulted to determine how the matter will be investigated and, with reference to the Crown Prosecution Service, whether any prosecution will take place.

CONTRACT PROCEDURE RULES

Introduction

These Contract Procedure Rules (CPRs) are intended to promote good procurement practice, public accountability and to deter corruption. The CPRs are mandatory for all Officers. Following them is the best defence against allegations that a purchase has been made unfairly, incorrectly or fraudulently. Officers responsible for purchasing must comply with these CPRs. They lay down minimum requirements. These CPRs have been written to allow social value, community wealth-building and environmental benefits to be included in procurement decisions.

Social Value for the purpose of these CPRs is taken to include Community Wealth-Building, Environmental and Economic benefits.

At the time of formal adoption of these CPRs the implementation of the Procurement Act 2023 (PA 2023) is expected to commence on 24 February 2025 and apply to new procurement processes commenced from that date and therefore the CPRs have been drafted on the basis of the PA 2023.

Further advice on the CPRs can be sought by contacting procurement in the first instance.

All procurement approaches, whether established and traditional or modern and innovative must comply with all elements of these CPRs.

All values referred to in these CPRs **are exclusive of VAT** unless expressed otherwise. However, all procurement Thresholds published by Government to trigger compliance with the PA 2023 are inclusive of VAT.

If you require support from procurement, please contact the procurement team at: procurement@lancaster.gov.uk

Section 1: Scope of the Contract Procedure Rules

DEFINITION OF TERMS

In the CPRs, unless the context otherwise demands, the following terms have the meaning assigned to them:

"**Basic Principles**"- Rule 1 of the Contract Procedure Rules;

"**Non-Covered Council Contract**" are those Council Contracts to which Procurement Legislation do not apply to and include:

- Contracts of employment which make an individual a direct employee of the Council
- Grants – see Rule 3
- Fines, Payment of taxes and other financial services
- Agreements regarding the acquisition, disposal, or transfer of land or property (for which Financial Regulations shall apply)
- Delivery of works and services by an in-house provider (the Council or other public authority exercises majority control and there is no private investment),
- Contracts between the Council and other contracting authorities
- Contracts for the provision of any product or service that has been manufactured or delivered by an illegal means
- Instruction of the procurement team such as with legal counsels/barristers
- Any other exempted contracts as listed in Schedule 2 of the PA 2023

Non-Covered Council Contracts to be interpreted accordingly;

"**Procurement Legislation**"- (i) the Public Contracts Regulations 2015 as amended (PCR 2015) until such date that it is repealed and superseded by the Procurement Act 2023 (PA 2023) ii) The Procurement Regulations 2024 and any regulations made pursuant to the PA 2023 (by a Minister of the Crown) when they come into effect; iii) insofar that it may apply to the relevant public contract, the Health Care Services (Provider Selection Regime) Regulations 2023 (PSR), and the relevant statutory guidance issued in relation to it; (iv) the Public Services (Social Value) Act 2012 and (v) relevant procurement regulations and any subsequent amendments to, or replacements of, them in relation to UK procurement legislation;

"**Relevant Contract**" – a public contract which must follow the relevant rules under the CPRs and is not a Non-Covered Council Contract:

(a) Relevant Above-Threshold Contract, and
(b) Relevant Below-Threshold Contract

"**Relevant Above-Threshold Contract**" is a public contract for which a procurement process is being undertaken within the scope of the PA 2023 and its regulations, for arrangements which are over the relevant Threshold and cover (including but not limited to):

(i) The supply of goods

(ii) The delivery of services or works

(iii) The hire, rental or lease of goods or equipment

(iv) Concession contracts for the supply of services and works

(v) Contracts or agreements where the provider is employed on a no win/no fee basis;

(vi) Light-touch services

(vii) Framework agreements or dynamic markets

and is not a Non-Covered Council Contract

"**Relevant Below-Threshold Contract**" - Any other Council contract which is

- Below-Threshold that is subject to partial application of Procurement Legislation
- above £30,000 (inclusive of VAT) for a tender notice and
- is not a Non-Covered Council Contract, an exempted, a concession or utilities contract.

"**Threshold**"- the applicable procurement public contract financial value at which a public contract becomes subject to the relevant Procurement Legislation.

1.0 Basic Principles

1.1 All purchasing procedures in scope of the PA 2023 must:

- have regard to the following procurement objectives:
  - Delivering value for money,
  - Maximising public benefit,
  - Transparency, and
  - Acting, and being seen to act, with integrity.
- Comply with Procurement Legislation and all UK procurement legal requirements
- Have regard to the National Procurement Policy Statement when it is published and as updated
- Comply with the Council's Codes of Practice and the Council's aims and policies
- Seek to incorporate and ensure the delivery of social value, community wealth-building and environmental benefits
- Identify and manage conflicts of interest throughout the process
- Have appropriate performance management measures in all Relevant Above-Threshold Contracts
- Treat suppliers the same unless different treatment is justified (and where different treatment is justified, the reasoning for this must be documented)
- Have regard to small and medium sized enterprises, the barriers they may face and how to reduce those barriers

2.0 Officer Responsibilities

2.1 Officers responsible for purchasing must comply with these CPRs, the Council's Financial Regulations, the Staff Code of Conduct, the Council's Anti-Bribery policy, arrangements for declaring conflicts of interest and Council's Scheme of Delegation and with Procurement Legislation. Officers must ensure that any agents, employees, consultants and contractual partners acting on their behalf also comply and they may be required to enter into a signed agreement to that effect.

2.2. Officers must:

- Plan, define, procure and manage the procurement process in line with updated UK guidance published for Procurement Legislation
- Have proper regard for all necessary legal, financial, technical and professional advice to ensure that contracts are legally, financially and technically capable of delivery to the Council Conduct any relevant value for money review
- Ensure that there is adequate budget provision for the procurement being undertaken (including any extensions and options)
- Take into account all relevant procurement notices which must be published for a procurement process and current contract (in accordance with the applicable Procurement Legislation) and seek advice from the Council's procurement team for any procurement concerns
- Undertake due diligence before any procurement process or contract commences, including reviewing the debarment lists before undertaking market engagement with suppliers and after submission of bids for suppliers, and if applicable their parent company and associated companies (or connected persons) and their proposed sub-contractors. Due diligence should also be carried out during the contract term, yearly checks must be undertaken including for updated insurances, and review of the debarment list for current suppliers (and any of their associated persons) published under Procurement Legislation
- Ensure the Basic Principles are complied with for all Relevant Contracts.
- Declare all conflicts of interest including any personal financial interest in relation to any current procurement process which they may be directly involved with and take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of procurement processes and manage those conflicts of interest throughout the procurement process from the planning stage to the end of the relevant contract's term (see Rule 23)
- Not engage in any fraud, bribery or corruption. Corruption is a criminal offence
- Report any offers of bribes or inducements (see Rule 22)
- Check whether there is an existing contract that can be used before undergoing a competitive process subject to procurement implications
- Allow sufficient time for the submission of bids
- Keep all supplier bids secure and confidential
- Keep written records of all dealings with bidders/suppliers. The project manager should ensure the safe keeping of contract documentation in line with the Council's document retention policy.
- Obtain all required approvals and complete a written contract (and sealed, as required) before placing an order or raising a purchase order for any supplies, services or works
- Not award a contract until the standstill period is over (where applicable)
- Enter all purchase order information onto the Oracle financial system
- Based on the Scheme of Delegation, identify a senior manager who is the designated contract owner responsible for the relationship with the supplier. In addition, a contract manager with responsibility for day to day issues and ensuring the contract delivers as intended may also be appointed

2.2 When any employee either of the Council or of a service provider/supplier which may be affected by any transfer arrangement in relation to a change of provider following a procurement process, Officers must ensure that the Transfer of Undertaking (Protection of Employment - TUPE) issues are considered.

2.3 Unless otherwise delegated, Chief Officers should:

- Keep records of all purchases and contracts valued below £100,000

- Ensure that all signed and sealed contracts valued at £100,000 and greater are scanned and entered onto the Contract Register
- Ensure that all Waivers are recorded under Rule 17.0

3.0 Grants

3.1 For the purposes of these CPRs, a grant refers to grant-in-aid and is the provision of funding to cover, in whole or, more likely, in part, the running costs of an organisation whose work complements that of the Council. The recipient will have discretion over the spending of that funding within the general framework of controls agreed between the Council and the recipient of the grant.

3.2 The terms of a grant are likely to require the other organisation to use the money only for a particular project or service and might require the recipient to pay back the grant, or part of it, in some circumstances. The Council would still, of course, monitor the achievement of the proposed outcomes and any giving of a grant should be subject of a formal contract.

3.3 The Council should determine on a case by case basis whether funding is to be considered as a grant or a Relevant Contract by reference to the decision making tool published by the National Audit Office at http://www.nao.org.uk/decision-support-toolkit/. A Relevant Contract is any arrangement made by, or on behalf of the Council the carrying out of works or for the supply of goods, materials or services.

4.0 Collaboration

4.1 In order to secure value for money, the Council may enter into a procurement arrangement with a Central Purchasing Body (CPB). The terms and conditions of the CPB must be fully complied with, including any requirement to undertake competition between providers. In order to secure value for money, the Council may enter into collaborative procurement arrangements with another local authority, government department, integrated care board, statutory undertaker or other contracting authority.

4.2 In some areas, the Council may enter into a collaborative service delivery arrangement with one or more other 'partner' organisations (whether local authorities, other public bodies or private sector organisations). In such circumstances, the council may wish to take advantage of a partner's procurement arrangements, expertise and agreements (e.g. frameworks).

5.0 Relevant Contracts

5.1 All Relevant Contracts must comply with these CPRs. Procurement Legislation and these CPRs do not apply to Non-Covered Council Contracts. Please see Definitions section (at the beginning of the CPRs) for the description of Non-Covered Council Contract.

5.2 Relevant Below-Threshold Contracts require certain notices to be published:

a) below threshold tender notice (s87 (1) PA 2023)
b) below threshold contract details notice – (s87 (3) PA 2023)

5.3 Officers procuring Relevant Below-Threshold Contracts have a duty to consider small and medium-sized enterprises

5.4 Officers cannot restrict Relevant Below-Threshold Contracts by requiring an assessment of a supplier's suitability to perform it (as in a pre -selection stage) unless it is in relation to a works contract over £213,477 (inclusive of VAT).

Section 2: Common Requirements

6.0 Steps Prior to Purchase

6.1 Officers should take the following steps before beginning a procurement exercise:

a. Review all Relevant Contracts to determine when a procurement should be undertaken. If there is contract then determine the service, product or works output taking into account the requirements from any relevant value for money review and the Council's commissioning outcomes
b. Appraise the need for the expenditure and its priority for the Council including whether the value crosses the Threshold
c. Define the objectives of the purchase
d. Assess the risks associated with the purchase and how to manage them
e. Review the Council's process and procedures on pre-market engagement to determine if this is required.
f. Officers involved in any part of the design of the procurement, decisions in respect of the procurement and evaluation of tenders must complete the declarations of interest form prior to their involvement and prior to the start of the evaluation process
g. Determine the terms and conditions of contract and ensure there will be provision for determining contract performance

6.2 Officers should also consider what procurement method is most likely to achieve the purchasing objectives, including packaging strategies, internal or external sourcing, shared services, concession arrangements, partnering arrangements and collaborative procurement arrangements with other local authorities and government departments. Officers should also consider working with NHS Lancashire and South Cumbria Integrated Care Board, statutory undertakers and Central Purchasing Bodies.

6.3 Officers should ensure that all procurements including method, contract standards and performance and user satisfaction monitoring and including any collaborative arrangements, are carried out using the Council's principles of co-production and co-delivery. Officers should also use the Council's standard terms and conditions of contract where possible.

6.4 The officer must confirm that they have the authority to spend, have obtained the required approval(s) for the expenditure and the purchase accords with the Scheme of Delegation. If the purchase is valued at £250,000 and greater, an entry onto the Council's List of Forthcoming Key Decisions has been made. If the purchase is valued at £50,000 and greater, the relevant Cabinet Member has been consulted.

7.0 Procurement Records

7.1 Where the total value is less than £100,000, the relevant officer must ensure that the following records are kept:

- Invitations to quote and quotations or whether invited particular or pre-selected suppliers
- A record of any waivers to the procurement process and the reasons for them
- Written records of communications with the successful contractor or an electronic record if a written record of the transaction would normally not be produced
- Copies of the quotes received must be appended to the relevant requisition

7.2 Where the total value exceeds £100,000, the relevant Chief Officer must ensure that the following records are kept:

- The method for obtaining bids

- The calculation of the estimated value
- The reason/reasons which sufficiently explain/explains any material decisions relating to the award of a public contract (including reasons for not using lots) such as excluding suppliers, assessment of tenders and decisions to award
- Any waiver under Rule 17 together with the reasons for it
- The award criteria in descending order of importance
- Tender documents sent to and received from tenderers
- Pre-tender research, benchmarking and consultation information
- All tender evaluation documentation. To include the scoring assessment sheet for each of the tender evaluators. Any post-tender clarification information, to include minutes of meetings
- The contract documents
- Contract due diligence checks, implementation and evaluation plan and any monitoring and management information
- Communications with all tenderers throughout the tendering exercise and with the successful supplier(s) throughout the period of the contract
- Record of Social Value offering that is to be measured and delivered throughout the contract and
- Any other records which may be required by the National Procurement Policy Statement

7.3 All contracts must be entered onto the Council's Contract Register held on the supplier portal. The manager responsible for procuring the contract should ensure the safe keeping of contract documentation in line with the Council's document retention policy.

7.4 All records for public contracts (Relevant Contracts) where a "material decision" was made, must be kept for a minimum of 3 years from when the contract was entered into by the Council and the supplier.

8.0 Competition Requirements for Purchases, Partnership Arrangements Frameworks, Concession contracts and Light- touch contracts

8.1 Subject to Rule 8.2, 8.3, 8.4, 8.5 and 8.16, Officers must estimate the value of a contract as the maximum amount the Council could expect to pay under the contract including, where applicable, amounts already paid. Values are to include the estimated costs of the contract including additional options if selected, extensions if exercised as well as premiums, commissions or interest which could become payable at any point of the contract. Where there are lots in a procurement which could reasonably all fall under one contract (for instance with supplier delivering all lots), these must be aggregated together for the estimated value of the procurement (unless there is some justifiable and defendable reason not to do so). All estimated values must *include VAT.* If in doubt, Officers should seek the advice of their procurement team.

8.2 For concession contracts, the estimated value is the amount a supplier might expect to receive as a result of the public contract.

8.3 Where Officers are unable to properly estimate the value of a contract, the assumption is that the value is above the Threshold. Officers should use their best valuation processes to arrive to an estimate and avoid this conclusion.

8.4 Where Officers are undertaking a procurement for a mixed contract (for instance goods and works are to be provided by a supplier) such that different Thresholds apply, If the elements are not separable then determine which aspect is the main purpose of the contract and that Threshold would apply. If the elements are separable then they can either be treated separately in relation to their applicable threshold or procured as a mixed contract (applying the lower Threshold).

8.5 Relevant Contracts must not be artificially divided into two or more contracts to avoid the application of these CPRs or Procurement Legislation. The Council is required to aggregate their requirements which can be reasonably aggregated unless there is a reason not to. Officers have discretion not to aggregate when they have cause not to. For instance where the goods, services or works to be supplied under two or more contracts would be under threshold but due to the nature of them, they could reasonably be supplied under a single contract and there is no reason not to do so then the contract should be combined and procured together. A good reason for not aggregating may include where not aggregating would lead to better outcomes or where a business unit has a delegated budget within the Council and procures only for the purpose of that business unit or where not aggregating would lead to better value outcomes (such as procuring printers from a particular supplier does not mean that the Council should necessarily buy all of their toner, paper and servicing from that same supplier if Officers believe they can get a better deal elsewhere or if two separate departments require toners for different types of printers unless one supplier can provide both).

8.6 Officers are to have regard to the fact that small and medium-sized enterprises may face particular barriers to participation and consider whether such barriers can be removed or reduced. In relation to frameworks and concession contracts, please contact the procurement team. Concession contracts are valued differently than standard contracts for goods, services and/or works.

8.7 The following table shows the procedures and approval process for the Council's tendering activities:

No.	Total Aggregate Value	Procedure	Internal Approval	Other Essential Requirements
A	£0.00 up to & including £10,000	One Written Quote	RSO	• The quote must represent value for money
B	Greater than £10,000 & up to £100,000*	One of: • A framework or dynamic purchasing system (DPS) • Three Written Quotes	RSO	• Unless a framework is used, 3 written quotes to be secured under sealed bid, of which, at least one quote from a local Lancaster supplier if possible* • opportunities valued at or greater than £25,000 which are being openly advertised must first publish a 'below-threshold tender notice' on the central digital platform before being published elsewhere (this will be done via the Council's eSourcing platform) • Above £50,000 relevant cabinet member to be consulted • A 'below-threshold tender notice' does not need to be published if the Council advertises only for the purpose of inviting tenders from particular or pre-selected suppliers Please see advertising requirements under Rule 10. *it should be noted that for procurements below Thresholds a restricted process can be permitted with all suppliers from the local area, subject to a waiver under Rule 17.
C	£100,000* & up to and including £150,000*	Formal Tendering through one of the following: • A Framework or DPS • Tender including advertisement	Chief Officer	• There is no longer a requirement to use a selection questionnaire, as under the PCR 2015 when procuring under PA 2023. However, templates can be used such as for works industry pre-

		on Lancaster's supplier portal, Contracts Finder, • Relevant cabinet member to be consulted.		qualification questionnaires provided that the templates meet the requirements of the PA 2023 • Details on Contract Register • Contract placed under seal if advised by Legal Please see advertising requirements under CPR 10.
D	Greater than £150,000 and up to and including £200,000	• Formal tendering • Refer to UK rules and requirements.	• Chief Executive	• As C, above.
E	Greater than £200,000	• Formal tendering	• Chief Executive with delegated authority from Cabinet	• As D, above • Above £250,000 published on the Council's List of Forthcoming Key Decisions.

8.8

a. Where a contract is valued between the Council's tendering threshold and Procurement Legislation's Threshold, a single stage process shall be used.
b. **Flexible Competitive tendering process for Relevant Above-Threshold Contracts** – an open procedure (a single-stage tendering procedure) or competitive procedure (multi-staged procedure which could restrict participants and include 'negotiation' or 'dialogue' stages) may be chosen.
c. **Framework Contracts** – An agreement between one or more contracting authorities and one or more economic operators. The term of a framework shall, save duly, justified and exceptional circumstances not exceed 4 years. Frameworks cannot be used in an improper manner that may hinder, restrict or distort competition. All terms and conditions of contract must set out how call-offs from the framework will be made and must be followed. Open Frameworks, under the PA 2023, will be an intermediary between a traditional framework and DPS (see below). If the Officer would like to set up new frameworks under the PA 2023, additional publishing requirements will apply.
d. **Dynamic Purchasing System (DPS)** – A completely electronic system used to purchase commonly used goods, services or works. Unlike a traditional framework, the process shall be open throughout the contract term allowing new suppliers to join at any time. A DPS must follow the rules of restricted procedure. No new DPS will commence under the PA 2023, instead there will be Dynamic Markets which can be used for all procurements (and are currently being reviewed before the PA 2023 comes into force). Only the competitive flexible procedure can be used for Dynamic Markets.

Officers must comply with the processes for Dynamic Markets in the PA 2023 to commence or procure contracts under them. Below-Threshold contracts cannot be awarded under a Dynamic Market arrangement (currently under review by the Cabinet Office).

e. **Concession Contracts (special regime contracts)** – To grant to the provider the sole and exclusive right to deliver the contract and to make money from the contract. A Concession contract must follow the requirement of the Concession Contracts Regulations 2016 and can follow a single or restricted procedure until the PA 2023 comes into effect.

f. **Convertible contracts**- these are contracts that become a public contract where modification would take the value above Threshold. Once the modification occurs then the contract will be subject to the full application of the Procurement Legislation. A Contract change notice would need to be published.

g. **Clinical/healthcare contracts**- these will always be subject to PSR no matter the value. Officers should discuss their requirements with the procurement team to determine if these regulations are applicable.

8.9 Where a two-stage process is allowed, the tender advertisement must show the number of suitably qualified tenderers who will be invited to submit bids.

8.10 An Officer must not enter into separate contracts nor select a method of calculating the total value in order to minimise the application of these CPRs or to avoid the requirements of the Procurement Legislation.

8.11 Where extensions of time or variations in price (or both together) are made to an existing contract, Officers must adhere to the extension and/or variation provisions in the terms and conditions. Officers must compute the amount of the variation and seek approval in accordance with the Council's Scheme of Delegation.

8.12 Where a contract is to be terminated before its contracted termination date, this must be approved by the relevant Chief Officer.

8.13 The procurement team must be consulted where contracts to work for organisations other than the Council are contemplated.

8.14 Light-touch (special regime contracts) – these contracts are wholly or mainly supply of services that have specific Common Procurement Vocabulary (CPV) and include health and social services (unless those healthcare services are covered by the PSR), benefit services, administrative social, educational and cultural services and other services to the community. Procurements for these contracts may be flexible and not all the requirements of the Procurement Legislation will apply (including contract change notices and other transparency requirements). Please discuss your requirements with the procurement team.

8.15 Light Touch contracts can account for user choice and has greater flexibility.

8.16 When considering or calculating the value of a contract for a regulated procurement, Officers should be aware that the thresholds in the PA 2023 **are inclusive of VAT**.

Health-related contracts subject to PSR

8.17 All other healthcare services will need to be procured in accordance with the PSR unless the procurement is for a mixed contract. Officers must ensure that healthcare services are procured correctly with reference to the appropriate contract terms and conditions.

8.18 Officers should discuss their requirements with the procurement team to confirm CPV codes to ensure that the Council follows the applicable Procurement Legislation and procurement process for their contract. There is no value threshold for PSR therefore all relevant healthcare services will be caught under PSR.

8.19 The PSR importantly requires the Council to:

- act with a view to securing the needs of the people who use the services, improving the quality of the services, and improving the efficiency of in the provision of the services
- ensure decisions about which organisations provide healthcare services are robust and defensible, with conflicts of interest appropriately managed and
- adopt a transparent, fair, and proportionate process when following the PSR.

8.20 The PSR is quite prescriptive and Officers making decisions about healthcare services must understand the market of providers and the requirements of each award process. Two of the Direct Award Processes (A and B) must be used should the circumstances apply. Officers must determine which award procedure fits with their circumstances and follow the steps in that process:

I. Direct award process A

This must be used when:

- There is an existing provider for the healthcare services in question.
- The Council believes that only the existing provider (or group) can deliver these services due to their nature.
- The Council is not seeking to establish a framework agreement.

II. Direct award process B:

This must be used when:

- Patients have a choice of providers for the healthcare services.
- The Council does not limit the number of providers.
- The Council will offer contracts to all providers meeting the service requirements.
- Providers can express interest in offering the services.
- The Council is not seeking to establish a framework agreement.

III. Direct award process C

This may be used when:

- The Council is not bound by Direct Award Processes A or B.

- An existing contract is due to expire and the Council proposes a new contract with no significant changes.
- The Council believes the existing provider (or group) is meeting the current contract standards and will likely meet the proposed contract standards.
- It cannot be used to establish a framework agreement.

IV. The Most Suitable Provider process

This is about awarding a contract without competition because the Council can identify the most suitable provider. This process may be used when:

- The Council is not bound by Direct Award Processes A or B.
- The Council cannot or chooses not to follow Direct Award Process C.
- The Council believes it can identify the best provider based on available information, without needing a competitive process.
- This process, called the "most suitable provider process," cannot be used to establish a framework agreement.

V. The Competitive Process

This is about conducting a competitive process to award a contract. This process may be used when:

- The Council is not bound by Direct Award Processes A or B.
- The Council cannot or chooses not to follow Direct Award Process C and also cannot or chooses not to follow the most suitable provider process.
- If the Council wants to establish a framework agreement, it must use the competitive process.

<u>Key criteria</u>

When using Direct Award Process C, the most suitable provider process, or the competitive process, Officers must consider five main criteria:

1. Quality and innovation
2. Value
3. Integration, collaboration, and service sustainability
4. Improving access, reducing health inequalities, and facilitating choice
5. Social value.

8.21 Procurement notices are required to be published under the PSR which differ to that in the PCR 2015 and/or PA 2023 (and its secondary legislation).

Table 1: Procurement notices that require publication under PSR processes

	Direct award process A	Direct award process B	Direct award process C	Most suitable provider process	Competitive process
Clear intentions: Publish the intended approach in advance				Yes	
Clear intentions: Publish a notice for a competitive tender					Yes
Communicating decisions: Publish the intention to award notice			Yes	Yes	Yes
Confirming decisions: Publish a confirmation of award notice	Yes	Yes	Yes	Yes	Yes
Contract modification: Publish a notice for contract modifications	Yes	Yes	Yes	Yes	Yes

9.0 Preliminary-Market Engagement

9.1 The Officer responsible for the purchase may consult potential suppliers prior to the issue of the invitation to tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential candidate or give an unfair advantage to a potential candidate. Officers are strongly advised to engage with suppliers during the tender process. Officers must bear in mind that a Preliminary Market Engagement Notice must be published if preliminary market engagement is undertaken. If for any reason this is not published, and pre market engagement is carried out, reasons for not publishing a Preliminary Market Engagement Notice must be given in the tender notice.

9.2 The responsible officer must consider the Basic Principles (Rule 1) and Officer Responsibilities (Rule 2) at this stage. Contracts tendered must not only achieve value for

money on a whole life costing basis for the organisation but also for society, the economy and the environment. Steps must be taken to incorporate social value, community wealth-building and environmental benefits. The Officers must also check the debarment list for excluded and excludable entities, as well as those organisations who have performance notices published about them.

9.3 Officers must also consider and take steps to mitigate any supplier advantage by taking part in the market engagement process. If the unfair advantage cannot be avoided then Officers must treat that supplier as excluded from the procurement process.

9.4 For Contracts or orders over £50,000 Officers are required to engage with their Cabinet Member before the approval of tender has been given. Discussions should include the contract's outcomes and outputs and opportunities for social value, community wealth-building and environmental benefits.

9.5 Preliminary market engagement notices are not required to be published for Relevant Below-Threshold Contracts. There is also no-requirement to explain non-publication of this notice for Below-Threshold tender notices.

10.0 Advertising

10.1 Officers should ensure that proposed contracts, irrespective of their total aggregate value, are published in a sufficiently accessible advertisement for all potential suppliers to view. Generally, the greater the interest of the contract to potential bidders, the wider the coverage of the advertisement should be. Advertisements for tenders should be placed as below:

a. For procurements valued between £0.00 and up to £100,000 (excluding VAT), Officers are not obliged to formally advertise (under Procurement Legislation) the purchase but may do so using the Council's supplier portal.
b. For contracts above £25,000 (excluding VAT) that are being openly procured, Officers must advertise the opportunity on Contracts Finder until the PA 2023 comes into effect then all procurement information and notices are to be published on the central digital platform.
c. Where the value exceeds the relevant Thresholds for supply, service and works contracts (concession contracts as well), tender advertisement rules must be followed in accordance with the current Procurement Legislation.
d. For procurement activity of any value Officers may use additional advertisements in national official journals, specialist trade papers or websites, if relevant and if affordable.

10.2 Officers must review the estimated value of all contracts against current Thresholds to determine what legal and Council process requirements are to be followed.

Notices

10.3 Officers need to be aware of the requirements to publish notices, the contents within them and when they need to be published when the PA 2023 comes into effect:

a. If preliminary market engagement is to be undertaken and there are no reasons for not doing so then a notice must be published with the relevant information.
b. If Officers estimate that the total annual spend of a contract for goods, services, or works contracts (above and below Threshold) would be over £100 million then a pipeline notice must be published within the first 56 days of the beginning of that

financial year (no later than 26 May each year if financial year starts on 1 April). In this notice, the Council needs to publish specified information on all upcoming contracts valued at £2 million or more expecting to be advertised in a tender notice or other procurement notice in the next 18 months following the first day of the financial year.

c. If Officers wish to inform the market of a procurement and/or to reduce tendering periods then a planned procurement notice may be published at least 40 days before but no more than 12 months before the day the tender notice is to be published.
d. Officers need to publish tender notices with all relevant information (including KPIs) in order to commence the procurement process.
e. Before awarding a contract, in order to start standstill, a Contract Award notice must be published.
f. If Officers have satisfied conditions for a direct award, then a Transparency Notice must be published and before the direct award is entered into.
g. A contract details notice is to be published when a Relevant Above-Threshold Contract is entered into and must be published within 30 days of entering into a public contract (or 120 days for light touch contracts but this does not apply to user choice contracts); and as soon as reasonably practicable after entering into a Relevant Below-Threshold Contract.

10.4 Officers need to be aware that during the lifetime of the Relevant Above-Threshold Contract, the following notices are still required to be published:

a. Payment compliance notices - a biannual requirement to publish prescribed information (set out in regulations) about payments made or due to suppliers under public contracts in the preceding six month period.
b. Information about Payments— which provides specified information about any individual payment they make under a public contract which is over £30,000 (inclusive of VAT). This is a quarterly requirement, with the publication within 30 days of the end of the quarter.
c. Contract Performance Information— for those contracts worth more than £5 million (inclusive of VAT) where at least 3 KPIs have been set, Officers must, at least once a year, review the supplier's performance against the KPIs and publish information relating to that assessment. In addition, where there has been a breach of contract that has led to termination, damages or a settlement agreement (or the supplier fails to perform), Officers must publish information relating to the breach or failure within 30 days of it arising.
d. Contract Change Notice— to indicate that a change will be entered into (this is published before the modification is carried out) and Officers must also publish a copy of the contract as modified for all contracts with an estimated value of more than £5 million (inclusive of VAT) within 90 days of the modification.
e. Contract Termination Notice— other than in limited circumstances, the Council must publish a contract termination notice within 30 days of the date of expiry or termination of the contract.

10.5 Officers need to also bear in mind that the Council must publish below-Threshold notices if the estimated value of the public contract is £30,000 or more (inclusive of VAT) unless the Council intends to only invite quotes from particular or pre-chosen suppliers.

10.6 In the contract details notices (over £5 million), a description of the KPIs (or any reasons why not applicable) must be included, specifically at least the 3 most material to the performance of the contract. Officers must therefore take their time and develop the KPIs before publishing.

10.7 Please see table of notices below which describes the various notices under PCR 2015 and PA 2023. Those highlighted are mandatory in those particular circumstances.

Notice	**PCR 2015 (applies to existing contracts)**	**PA 2023 (when it comes in force and applies to contracts procured under it)**
Pipeline Notice	n/a	The pipeline notice should list all planned procurements starting from the first day of that financial year for the whole financial year and the first half of the next financial year where the estimated contract value exceeds £2 million. The Council will be required to publish their first annual pipeline notice by May 26th 2025. This must contain the title of the procurement and estimated date when the tender notice or Transparency Notice (for direct awards) would be published. This notice is mandatory for organisations where procurement spend is over £100 million. This notice will be published by the procurement team, however, Officer input into procurement pipeline activity is required.
Planned Procurement Notice	n/a	An optional notice type that the Council can use in the pre-procurement stage to provide advanced notice of an upcoming procurement (similar to a PIN). This may be published anytime between 40 days and 1 year before the publication of an official tender notice.
PIN	Optional and does not apply to 'light-touch' services contracts. Publishing this will not amount to commencement of a procurement process unless it is published as a call for competition.	n/a
Preliminary Market Engagement Notice	n/a	If preliminary market engagement is to be undertaken and there are

		no reasons for not doing so then a notice must be published with the relevant information. If the Council does not start preliminary market engagement by publishing a notice, it must explain why it did not publish this notice when it publishes its tender notice or Transparency Notice (for direct awards).
Contract Notice	Required for beginning a competitive procurement process (except for call-offs from frameworks or direct awards)	n/a
Below-Threshold Notice	Publication elsewhere first, with the notice required to be published on Contracts Finder within 24 hours of it appearing elsewhere.	For Relevant Below-Threshold Contracts Officers must first publish a 'below-threshold tender notice' on the central digital platform before being published elsewhere via the Council's eSourcing platform (the Chest). There is no requirement to publish a below-threshold tender notice where the Council invites quotes, proposals or tenders from a closed group of pre-selected suppliers, (i.e. suppliers on a framework) or from one or more targeted individual suppliers, provided it does not advertise the procurement in any other way (for example in a newspaper or on a local website or portal).
Tender Notice	n/a	The Council must publish tender notices with all relevant information (including KPIs and evaluation methodology) in order to commence the procurement process (similar to a Contract Notice under the PCR 2015 which starts the procurement process). This is be published when undertaking an open or competitive flexible procedure (including to establish a framework agreement and procuring using a dynamic market) or procuring a regulated below-threshold contract.
Contract Award Notice	Must be published within 30 days after contract award.	Must be published to communicate the outcome of the procurement and to commence the standstill period prior to awarding a contract

		under the open or competitive flexible procedure (and voluntary standstill periods for direct awards). This must contain information about the 'assessed tenders' and where the contract is over £5 million it must state the unsuccessful suppliers who submitted tenders. Note that although this is also called a "contract award notice", it is a different notice to that published under the PCR 2015.
Procurement Termination Notice	n/a	Must be published where, after publishing a Tender Notice or Transparency Notice, the process is terminated without awarding a contract.
Contract Details Notice	n/a	This notice informs the market that the contract has been entered into, as well as details of the procurement process used, the successful bidder and the awarded contract (including the contract, for public contracts £5m+), including regulated below-threshold contracts above a certain value and those procured by direct award. This must be published within 30 days for Relevant Above-Threshold Contracts; and as soon as reasonably practicable after entering into a Relevant Below-Threshold Contract.
Modification Notice	Required in some instances where modifications exceed PCR 2015 thresholds	(similar to Contract Change Notice).
Contract Change Notice	n/a	Must be published to provide details of most modifications (save for lower value modifications) that have been made to the contract during its term. This must be published before the change is made and the Council may apply a voluntary standstill period. For contracts with a value of over £5m, the Council must publish a copy of the whole modified contract or the modification itself.
Transparency Notice	n/a	Must be published prior to award when undertaking a direct award (note this is not a direct award under a framework agreement –

		this is a direct award permitted by the PA 2023 where the Council is not required to compete the contract).
Voluntary Ex Ante Transparency ("VEAT") Notice	Published in limited circumstances to justify a direct award without competition before a contract is entered into.	n/a
Contract Termination Notice	n/a	The Council is required to issue a notice publicising that a contract has come to an end, regardless of how the contract concluded (such as expiry, termination, discharge, court order, rescinded). The Council will at the same time need to provide details around the reason for the termination.
Contract Performance Notice	n/a	The purpose of this notice is to report on the supplier's performance against any KPIs that have been established or where the Council considers that the supplier is not performing to its satisfaction. This notice is also to be used where the supplier breaches a public contract. Must publish KPI scores for public contracts £5m+ (at least annually). Publish within 30 days of supplier poor performance / breach of contract. At least once every 12 months (and more frequently, if provided for in the contract and contract details notice), the contracting authority must assess and then publish details of supplier performance against the set KPIs to the central digital platform.
Contract Payment Notice	n/a	Must publish details of payments over £30,000 under a public contract (quarterly). Officers will not be responsible for publishing the payment notices and this will be done by procurement and finance.
Payment Compliance Notices	n/a	Must be published detailing the Council's compliance with the PA 2023's requirement to pay invoices within 30 days of receiving such invoices from suppliers and must publish details of performance

		against 30-day payment terms (twice annually). Officers will not be responsible for publishing the payment notices and this will be done by procurement and finance.

11.0 Standards & Award Criteria

11.1 The Officer must ascertain the relevant international standards which apply to the subject matter of the Relevant Contracts. The Officer must include those standards which are necessary properly to describe the required quality. UK Standards may be referred to if it adopts international equivalent standards. If there is neither an international standard nor UK standard with the equivalent international standards, then UK standards may be specified. The procurement team must be consulted if it is proposed to use standards other than international or UK standards.

11.2 The Officer must define award criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the Council. The current basic criteria is:

a. "Most Economically Advantageous Tender", where price and quality elements are considered. All elements to be fully identified (including sub-criterion) in the Invitation to Tender (ITT) documentation. Quality elements should include delivery of Social Value or “Highest Price" if payment is to be received for sale or disposal (PCR 2015); otherwise

b. When the PA 2023 comes into effect, Relevant Contracts are to be award on the basis of the “Most Advantageous Tender" (MAT) which is the tender that the Council considers best meets its requirements and satisfies the award criteria weightings. Contracts awarded on the basis of MAT may also be determined on the basis of a wide range of factors - this may include price and quality criteria in addition to wider social and environmental issues where that is decided to be relevant for the best solution.

11.3 Award criteria under the PCRs must not include non-commercial considerations except those set out in the Public Services (Social Value) Act 2012, the Procurement Strategy or matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement and must reflect the subject matter of the contract. This is subject to change in relation to regulations created under the PA 2023so that this can be dis-applied to certain public contracts to the extent that the Council considers it necessary or expedient to do so to enable or facilitate compliance with the relevant duty, or where Procurement Legislation expressly indicates otherwise. Current Regulation 17 of the Draft Procurement Act 2023 (Miscellaneous Provisions) Regulations 2024 identify geographic location as a non-commercial matter that can be taken into account for below-threshold contracts.

11.4 Social Value outputs will be included in any contract award criteria, where the contract value is above £100,000. For contracts below £100,000 Officers should still include Social Value output wherever possible. Officers must consider the Basic Principles (maximising public benefit) and National Procurement Policy Statement when setting Social Value requirements.

12.0 Invitations to Tender & Quotations

12.1 The invitation to tender shall state that no tender will be considered unless it is received by the date and time stipulated in the Invitation to Tender.

12.2 All Requests for Quotes or Invitation to Tenders valued at £10,000 and greater must be conducted online through the Council’s supplier portal and the designated government

procurement portals where greater than £30,000 (inclusive of VAT). Officers and suppliers will be provided with guidance and support on how the system works and where they can get help.

12.3 All Invitations to tender to include the following:

a. The requirement that all Tenders and their responses for contracts valued at £100,000 and greater must be completed online.
b. A specification that describes the Council's requirements. Specifications must set out a clear and comprehensive description of the Council's requirements with regard to the supplies, services or works to be procured. The specification must include KPIs (unless below £5m and/or there are justifications to not apply them.) A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose). Named products or manufacturers must not be specified unless Officers consider it necessary in order to justify their requirements.
c. A requirement for tenderers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion.
d. Notification that tenders are submitted to the Council on the basis that they are prepared at the tenderer's expense.
e. A description of the award procedure and, a definition of the award criteria in objective terms and if possible, in descending order of importance.
f. Weighting for award criteria and calculation of the scores.
g. The method by which any arithmetical errors discovered in the submitted tenders is to be dealt with; in particular, whether the overall price prevails over individual rates when it comes to a bidder's tender's price being considered "abnormally low" in the tender or vice versa.
h. A statement to the effect that any tender that does not comply with the Council's requirement will be excluded from further consideration
i. And any other rules and instructions set out in the Invitation to Tender.

12.4 All Invitations to tender or quotations must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rules 18 and 19).

12.5 Tenders that are returned without a requested signed Form of Tender will be considered as non-compliant.

12.6 All candidates invited to tender, or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

Conditions of Participation (PA 2023)

12.7 Suppliers must satisfy the conditions of participation in order to qualify to be awarded a public contract following a competitive tendering procedure. These conditions are that the supplier has

- legal and financial capacity; and/or
- technical ability

to perform the contract, and must be proportional having regard to the nature, complexity and value of the contract (Supplier Assessment Conditions). There is no requirement to set conditions under any heading which is not relevant to the procurement therefore Officers can use just one heading.

12.8 These Supplier Assessment Conditions may be used to limit the number of suppliers in an initial participation round via a pass/fail mechanism or using objective criteria to score suppliers as set out in the tender notice.

12.9 The Supplier Assessment Conditions must be general and allow equivalent qualifications, experience or technical ability but cannot break the rules on technical specifications (as required under Procurement Legislation), require submission of audited accounts or insurances in place before award of the contract.

12.10 There is no longer a requirement to use a standardised selection questionnaire for Relevant Above-Threshold Contracts under the PA 2023, however, templates can still be used provided they comply with PA 2023 requirements. The government has published a Procurement Specific Questionnaire template for use and whilst not mandatory for the Council's use, it is recommended that Officers use this template. Please find template at https://www.procurementpathway.civilservice.gov.uk/documents/template/pa-2023-procurement-specific-questionnaire or request a copy from the procurement team.

12.11 The Supplier Assessment Conditions are different to the award criteria which assesses the tender.

12.12 Conditions of participation only apply to Relevant Above-Threshold Contracts.

13.0 Shortlisting

13.1 Any shortlisting must have regard to the financial standing, technical capacity and capability relevant to the contract and the award criteria.

13.2 Where the contract value is over Threshold, Officers must adhere to specific shortlisting rules that apply in respect of the Procurement Legislation. Under the PA 2023, shortlisting or two stage tendering can be done under the competitive flexible procedure but cannot be used in the open procedure.

14.0 Submission, Receipt & Opening of Tenders & Quotations

14.1 Tenders of £100,000 or greater must be returned directly using the Council's supplier portal. Further information on the e-tendering system is available from the procurement team. Tenders must be submitted directly to the portal.

14.2 An electronic reverse auction should only be used following discussion with Procurement. The procedure enables suppliers/providers to adjust their tender price in the light of information from the tender prices submitted by competing suppliers/providers, then alterations will be accepted as permitted by the auction process. This can only be done for open procedures and the technical details need to be described in the tender notice.

14.3 All submitted tenders must be opened at the same time after the period for submission has ended.

14.4 Suppliers who have expressed interest or have been invited to participate in a tender must be given adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirement.

14.5 Any tender that does not comply with the Council's requirement, as set out in the tender invitation, should normally be excluded from consideration, with the circumstances recorded. Officers may, however, seek the agreement of the Chief Officer Governance and procurement to relax these requirements in appropriate circumstances.

15.0 Clarification Procedures and Post Tender Negotiation

15.1 Providing clarification of an invitation to tender to potential or actual candidates or seeking clarification of a tender, in writing, is permitted. Discussions with tenderers after

submission of a tender and before the award of a contract (post tender clarification) with a view to clarifying obvious omissions, mistakes or errors, false statements or abnormal offers in the tender submitted, operational provisions or terms and conditions of contract are permitted and should be done wherever possible through the supplier portal. Officers are expected to evaluate the tenders as submitted and other than corresponding with the tenderer for minor or non-material clarifications, under no circumstances should any tenderer be given the opportunity to engage in negotiations with regard to pricing or any other material aspects of the tender. Where post tender negotiations are to take place with suppliers as part of the procurement process, this should be stated in the tender notice and the procurement documents and all tenderers involved in the respective exercise must be notified. All information and correspondence must be documented by the Officers conducting the clarification. The competitive flexible procedure allows for negotiation at any stage of the procurement process if designed that way by officers.

15.2 The Officer may negotiate the terms of a Tender for one or all bidders in writing or at a meeting, provided that:

- The Chief Officer is satisfied that the Officer carrying out the negotiation has the skill and competency commensurate with the complexity and value of the contract and has authorised such action. Confirmation of authorisation is to be kept as a record.
- The Procurement Manager should be made aware of any Post Tender negotiations that are taking place.
- Notes of that meeting are taken and agreed with all the parties.
- The Officer seeks advice and support from the Procurement Manager.
- The Officer has regard and follows the Council's Code of Conduct for Employees at all times.

15.3 Officers may seek authorisation to carry out negotiations on contracts that are currently being delivered; this may be with regard to price or quality. Authorisation will be granted by the Chief Officer.

15.4 Where post-tender clarification results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.

16.0 Evaluation, Award of Contract & Debriefing of Candidates

16.1 Apart from the debriefing required or permitted by these CPRs, the confidentiality of quotations, tenders and the identities of candidates must be preserved at all times and information about one candidate's tender submission must not be given to another candidate.

16.2 Officers involved in the evaluation must review and update their conflict of interest declarations before evaluation.

16.3 Officers must check to determine if a tenderer is an excluded or excludable supplier, assess conditions of participation, where the tenderer or its nominated subcontractor is located, the tender meets all requirements, whether the price could be abnormally low, and is compliant with the tender documents and procedural requirements.

16.4 Contracts must be evaluated and awarded in accordance with the award criteria and agreed evaluation methodology as published in contract notices and the procurement documents.

16.5 Any evaluations that are undertaken independently should have scores determined, if necessary, by a tender evaluation panel during a moderation meeting. All documentation pertaining to the evaluation and decision including minutes, individual scores and notes

are to be retained. Officers must ensure full written legible notes are made by evaluators and moderators to have an audit of the evaluation.

16.6 If arithmetical errors are found in a bidder's tender submission or is deemed to be "abnormally low" these should be clarified with the tenderer. If the rates in the tender, rather than the overall price, were stated within the tender invitation as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.

16.7 Officers may accept quotations and tenders received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these CPRs and in respect of the Scheme of Delegation.

16.8 Where the total value of a Relevant Contract is at £100,000 (excluding VAT) and greater, both the successful and unsuccessful tenderers (those that submitted a tender which was evaluated) should each be provided with an assessment summary.

16.9 As required under Procurement Legislation:

a. Relevant Below-Threshold Contracts
    i. The successful Supplier should be notified promptly in writing, through the supplier portal that they have been selected to carry out the contract.
    ii. Unsuccessful suppliers should be informed, in writing that they have not been selected to carry out the contract at the same time as the successful Supplier.

b. Relevant Above Threshold Contracts
    i. The successful Supplier should be notified promptly in writing, through the supplier portal that they have been selected to carry out the contract.
    ii. Unsuccessful suppliers should be informed, in writing that they have not been selected to carry out the contract at the same time as the successful Supplier.
    iii. Both successful supplier and unsuccessful suppliers must be provided with assessment summaries.
    iv. A contract award notice must be completed and published. This notice cannot be published until all bidders have been issued with an assessment summary and will trigger the start of the standstill period.
    v. The "mandatory standstill period" is the period of 8 working days beginning with the day on which a contract award notice is published or such other later date as provided for in the contract award notice. This does not apply for specific contracts such as award of direct award, in accordance with a framework, reference to a dynamic market or a light-touch contract.

16.10 Assessment summaries must include information about the assessment of the tender and if different, the most advantageous tender- the successful tender.

16.11 When evaluating prices, indexation may be allowed if provided for under the contract. General increases in contract prices in relation to indexation depends on the mechanism in the contract. Officers to consider this when valuing the contract and determining whether the value can exceed the relevant procurement thresholds (noting the existence of convertible contracts see Rule 8.8 above)

16.12 The Council is required to confirm with the preferred supplier that their information on the central digital platform is up-to-date and accurate. Officers must ensure that this step is undertaken before any contract award step is taken.

17.0 Waivers (Single Tender Action – Direct Award Contracts)

17.1 For Relevant Above-Threshold Contracts, it is recognised that, under exceptional circumstances only, one provider may be chosen by the Council able to fulfil the needs of the Council. Procurement Legislation do not provide only a single term to cover such arrangements and consequently they may be referred to by various names. All must be treated in the same manner. Officers may carry out a selection process or take such other preliminary steps as they considers appropriate for the purpose of directly awarding a contract

17.2 A Single Tender Action is the award of a contract to a single supplier, service provider or contractor of the Council's choosing without undertaking a competitive tendering exercise in the following exceptional circumstances:

a. **Technical Reason** – required for novel prototypes and development (PA 2023).
b. **Exclusive Rights** – only one party can perform the contract due to intellectual/industrial property rights e.g. patents/trademarks or copyright.
c. **Artistic Rights** – engaging an artist or performer in the creation or acquisition of a unique work of art or artistic performance.
d. **Urgency** – strictly necessary for reasons of extreme and unavoidable urgency.
e. **Additional/Repeat delivery of services/goods or works by existing supplier** –a change in supplier would be different or incompatible with the current supplier and the difference of incompatibility would result in disproportionate technical difficulties in operation or maintenance.
f. **Reserved repeat delivery of similar services/goods or works by previous supplier** – only if indicated in previous tender notice or tender document no more than 5 years from request of repeat.
g. **Consultancy Services –** follow up work to complete the assignment previously awarded on a competitive tendering exercise.
h. **Protect life** – considered necessary for protection of human, animal or plant life or health or protections of public order/safety (PA 2023).
i. **Excluded supplier –** if there is an overriding public interest in awarding the contract to that supplier.
j. **No suitable tenders** were submitted following a competitive procedure.
k. Purchase of commodities – goods purchased on the commodity market (direct award under PA 2023).
l. Advantageous terms on insolvency – Awarding a contract to a particular supplier will ensure particularly advantageous terms due to the supplier undergoing insolvency proceedings.
m. **Or any other circumstance as provided for in Procurement Legislation**.

17.3 For Relevant Above-Threshold Contracts, Offices are required to complete a waiver before entering into a contract or applying a contract modification (See Rule 27).

17.4 For Relevant Below- Threshold Contracts, the Council and its Cabinet may waive any requirements within these CPRs for specific projects. However, consideration must be given to the risk of legal challenge should a decision not to advertise the requirement and proceed to award the contract or framework without competition be made. The Council may delegate that authority in line with section 8.7 of the CPRs and the Chief Officer Governance. The circumstances under which a waiver can be agreed include:

a. **Demonstrable Best Interest**: it can be demonstrated that it is in the Council's best interest and this is clearly demonstrated in the comments section in the waiver report.

b. **Emergency:** There is a clear need to provide a service or product immediately in the instance of a sudden unforeseen crisis; the immediate risk is to health, life, property or environment. Normal competitive processes are not feasible.
c. **Changing an Existing Contract**: making significant improvements and/or changes to an existing contract. This will usually be captured in a contract variation waiver.
d. **Urgency**: there exists an unforeseen situation calling for prompt action in order to provide a product or service that fulfils a specific statutory obligation, e.g. health and safety requirements. Competitive processes may not be feasible
e. **Exigencies of a Service**: there are demonstrable circumstances that are genuinely exceptional.
f. **Extension as Waiver**: where a contract extension is being sought which was not duly authorised in the original Officer Delegated Decision.

17.5 Single Tender Actions **will not** be permitted in the following circumstances:

- time constraints through poor project planning
- previous relationships with suppliers
- to avoid a competitive tendering exercise.

17.6 All waivers, the reasons and the justification for them and the period for which the waiver is valid must be recorded and signed off by the relevant officer and manager in accordance with the Council's Scheme of Delegation.

17.7 A single tender still requires a set of Invitation to Tender documents including terms and conditions and scope of works to be drafted and issued, and a written formal response to be made by the supplier through the Council's e-tendering portal.

17.8 The decision-making route for waivers is as follows: Waiver

Value	Decision Maker
£0.00 up to £150,000	• Chief Officer
£150,000 and greater	• Monitoring Officer or Section 151 officer

17.9 A Transparency Notice must be published before a contract is directly awarded.

17.10 In relation to urgency and Relevant Above-Threshold Contracts, a direct award is permitted where the requirement for goods, services or works is strictly necessary for reasons of extreme urgency and cannot be procured via a competitive tendering procedure and has been brought about by circumstances unforeseeable by and not attributable to the Council.

18.0 Contract Documents

18.1 All relevant contracts should be in writing and should set out the parties' obligations, rights and risk allocations.

18.2 All relevant contracts, irrespective of value, should clearly specify:

a. What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done)
b. The provisions for payment (i.e. the price to be paid and when)
c. The time, or times, within which the contract is to be performed
d. The provisions for the Council to terminate the contract
e. The terms and conditions to be applied to the contract

18.3 The Council's terms and conditions of contract should be used wherever possible rather than the suppliers. If you intend to use the supplier's terms advice must be sought from legal.

18.4 If the Council's standard terms and conditions are not used, every relevant contract of purchase over £100,000 (excluding VAT) must also state clearly as a minimum:

a. That the contractor may not assign or sub-contract without prior written consent
b. How the contractor would indemnify the Council against any negligent act or omission
c. Any insurance requirements
d. How the contract may be ended because of non-performance or otherwise
e. How intellectual property is dealt with
f. How services may be varied
g. That the contractor should pay the living wage
h. At least 3 materially important key performance indicators (unless not appropriate – see rule 19.5)
i. Health and safety requirements
j. Ombudsman requirements, if relevant
k. Data protection requirements (GDPR) especially where data processing is to be undertaken, if relevant
l. That charter standards are to be met if relevant
m. Requirements under the Equalities Act 2010
n. Anti-fraud, Corruption and Modern Slavery
o. Freedom of Information Act requirements
p. Where Agents are used to let contracts, that Agents must comply with the Council's CPRs
q. A right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant
r. Special conditions relating to Responsible Procurement
s. Where required Special Conditions (as required by the Council) relating to Works Contracts

18.5 The formal advice of legal must be sought for the following contracts:

a. Where it is proposed to use a supplier's own terms
b. Those that involve insourcing or outsourcing

18.6 In addition to Legal advice the advice of legal should be sought for contracts:

a. Where the total value exceeds £100,000
b. Those involving leasing arrangements
c. That are complex in any other way.

18.7 Officers must arrange for the original copy of all signed contracts to be lodged with legal as soon as the contract has been awarded.

18.8 Where possible, Relevant Above-Threshold Contracts should expressly state those terms and conditions which are implied into them by the Procurement Legislation):

- Electronic invoicing
- Payment terms in contract and sub-contracts (including Relevant Below-Threshold Contracts)
- right to terminate public contracts, and
- Framework terms

19.0 Contract Formalities

19.1 All contracts should be concluded formally in writing before the supply, service or construction work begins.

19.2 The Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

19.3 Subject to any exceptions as provided elsewhere in the Scheme of Delegation, all contracts to be made under seal (other than contracts for the sale and acquisition of land at auction, electronic e-auctions and insurance contracts) will be determined by the Chief Officer Governance.

19.4 Where contracts are completed by each side adding their formal seal, such contracts shall be attested by the Chief Executive or Chief Officer. The seal must not be affixed without the proper authority. A contract must be sealed where in the opinion of the Chief Officer Governance:

a. The Council wishes to enforce the contract more than six years after its end
b. The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services
c. There is any doubt about the authority of the person signing for the other contracting party

19.5 Officers must set at least 3 key performance indicators for all public contracts with an estimated value of more than £5 million (including VAT) except where Officers determine it is not appropriate (for instance one-off delivery of goods).

20.0 Publishing Contract Information

20.1 The Council must publish a copy of all contracts which are more than £5 million

a. If a light touch contract within 180 days from the day the contract is entered into; or
b. other public contract within 90 days from the day the contract is entered into,

which may be redacted. Officers should review with the information governance team before publishing.

20.2 Where the Officers have set KPIs the Council is to publish at least the 3 of the most material KPIs annually for the lifetime of the contract therefore all Relevant Above-Threshold Contracts must have adequate performance monitoring and reporting mechanism. This information needs to indicate how the contract has been performed against set criteria:

Rating	***Description***
Good	Performance is meeting or exceeding the key performance indicators
Approaching target	Performance is close to meeting the key performance indicators

Rating	*Description*
Requires improvement	Performance is below the key performance indicators
Inadequate	Performance is significantly below the key performance indicators
Other	Performance cannot be described as good, approaching target, requires improvement or inadequate

21.0 Bonds & Parent Company Guarantees

21.1 The Officer must consult the appropriate Chief Officer to determine whether a Parent Company Guarantee (PCG) is necessary and at what level when a candidate is a subsidiary of a parent company and:

a. Award is based on evaluation of the parent company, or
b. There is some concern about the stability of the candidate or
c. The candidate, associated or connected persons (or parent company) are listed in the mandatory/discretionary grounds debarment list (see Rule 2.2).

21.2 Further to Rule 21.1 (c.), the Officers will need to make an assessment as to whether the 'self-cleaning' information is sufficient and acceptable.

21.3 The Officer must consult the appropriate Chief Officer about whether a Bond is needed, the value it must be where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the candidate.

22.0 Prevention of Corruption

22.1 The Officer must comply with the Officer Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. High standards of conduct are obligatory. Findings of corrupt behaviour in Council officers may lead to dismissal.

23.0 Declaration of Interest

23.1 If it comes to the knowledge of a member or an employee of the Council that a contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Chief Officer Governance.

23.2 Such written notice is required irrespective of whether the pecuniary (financial) interest is direct or indirect. An indirect pecuniary interest is distinct from a direct pecuniary interest in as much as it is not a contract to which the member or employee is directly a party.

23.3 A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a pecuniary interest for the purposes of this standing order.

23.4 Responsible Officers must take reasonable steps to identify, and keep under review, any actual or potential conflicts of interest that any staff or consultant has in relation to a Relevant Above-Threshold Contract and mitigate the effect of a conflict of interest by taking reasonable steps to avoid putting a supplier at an unfair advantage or disadvantage. If the conflict of interest cannot be avoided or mitigated to nullify any advantage or if a

supplier to undertake mitigated steps then that supplier is to be treated as an excluded supplier and not be allowed to participate in the procurement process.

23.5 Where an Officer (or consultant) is involved in the decision-making process, and has a personal, professional or financial interest (whether direct or in direct) in relation to a Relevant Contract, the Officer should declare this interest whether or not it is in existence at the time of the declaration or could arise in the future should certain circumstances occur as this could be considered a perceived conflict of interest.

23.6 Where conflicts of interest exists, potentially could or could be perceived to exist, Officers need to determine what can be done to mitigate the effects and put into effect as soon as reasonably possible.

23.7 Before commencing an above Threshold procurement, a conflict assessment is to be prepared before a tender or Transparency Notice is published. This assessment must include details of the conflict of interest, steps taken or will be taken to mitigate conflicts of interest and address circumstances which the contracting authority considers are likely to cause a reasonable person to wrongly believe there to be a conflict or potential conflict of interest. Officers should discuss with the procurement and information governance team before publishing.

23.8 A record of all declarations of interests notified by Officers will be Reviewed and revised as necessary (before any Tender Notice, Transparency Notice, dynamic market notice, Contract Details Notice or Contract Change Notice is to be published) confirming that this has been completed. The review and confirmation requirement ceases to apply after the Council has published a procurement or contract termination notice.

23.9 While these provisions do not apply to below-Threshold procurements, Officers should undertake responsible due diligence and take a proportionate approach to having a conflicts of interest assessment.

24.0 Managing Contracts

24.1 Chief Officers are to name contract managers for all new contracts. All contracts should have a named Council contract owner and contract manager for the entirety of the contract.

24.2 Contract managers must follow the procedures set out in the Council's CPRs and are responsible for KPI assessments and providing all contract information in the relevant form, required to be published.

25.0 Risk Assessment & Contingency Planning

25.1 Provision for resources for the management of the contract, for its entirety, must be identified in the business case.

25.2 For all contracts with a value of £100,000 and greater, the contract manager must:

a. Maintain a risk register during the contract period
b. Undertake appropriate risk assessments and for identified risks
c. Ensure contingency measures and business continuity plans are in place

25.3 Prior to commencing an above Threshold procurement process, the risk types need to be identified and any mitigating steps would need to be considered:

a. Known Unknowns – there is insufficient information for consequences to be known in advance; the risk is lower priority/non-critical, due to unknown probability and impact; and the cost of defining the risks up-front and building into the contract may be

disproportionate against the actual cost paid if the risk materialises. This can, for instance be mitigated by Officers by undertaking pre-market engagement, design an appropriate specification that considers the risks and developing relevant KPIs to manage the risk or likelihood of these 'known unknown' risks occurring. Officers could also detail in tender documents and/or notices how the risks may impact satisfactory performance of the contract, why it cannot be addressed 'upfront' in the contract, raise the possibility of additional modification if any of these 'known unknown' risks later materialise and who is assigned it in the tender documents and notices. These are risks that the Council is aware of but unaware of size and effect of impact. For instance, if the council wishes to refurbish one of their buildings and whilst they can undertake site surveys which does not identify problems, the risk remains that some issues with the building fabric may still be uncovered if for instance the building was not fully surveyed. Known elements of a risk are those that can be reasonably identified in advance of the risk materialising and the unknown elements of a risk are those that cannot be reasonably identified in advance of the risk materialising due to insufficient information on the probability and impact.

b. Unknown Unknowns – unforeseeable risks that Officers are not aware of, and therefore also unaware of the size and effect of their impact. This can, for instance be mitigated by Officers undertaking pre-market engagement to help identify potential risks using market / supplier knowledge.
c. Known Knowns – foreseeable risks that Officers are aware of, and are also aware of the size and effect of their impact. This can, for instance be mitigated by Officers undertaking pre-market engagement, design an appropriate specification that considers the risks and developing relevant KPIs to manage the risk or likelihood of it occurring. Officers could also detail the risk in the tender documents and notices which could be beneficial if the risk materialises and the Council needs to modify the contract accordingly (costs must not be increased by more than 50%).

26.0 Contract Monitoring, Evaluation & Review

26.1 All contracts valued at £100,000 and greater are to be subject to regular formal reviews with the contractor. An initial review should be done at the first 3 months of a contract start date and on-going reviews should then be conducted on a regular schedule.

26.2 A formal review process must be applied to all contracts deemed to be High Risk, High Value, or High Profile. This process must be applied at key stages of major procurements.

26.3 During the life of the contract, the Officer must monitor a contract in respect of:

a. Performance and compliance with specification and contract.
b. Cost and any value for money requirements including inflation, bonuses, any gain/share arrangements and the application of service credits (if relevant).
c. Whether payment of valid and non-disputed invoices (or such other payable sum) are made by the Council within 30 days of receipt of it. This is to be published twice a year.
d. All contract variations, the reasons for them and whether they affected the cost/value of the contract (and the difference in pounds and percentage change in comparison to the originally awarded value of the contract); and ensure the contract has been modified within 90 days of the modification for publishing-only those contracts estimated or modified to be over £5million.
e. User satisfaction and risk management.
f. Equality Assessment Progress Report (including Living Wage)
g. Supplier Financial Health Check.
h. Relevant Due Diligence clarifications including Modern Slavery.
i. Performance of KPIs/ service levels and the how the supplier is performing the contract against the KPIs in particular the top 3 most material KPIs essential to that contract
j. Social Value.

k. Environmental.
l. Insurances to be maintained under the contract.
m. records for contract termination.
n. any audits which are undertaken during lifetime of contract.

27.0 Modifications

27.1 Any variation to contract for a contract valued above the Threshold can only be varied if the variation is a permitted modification and not a substantial modification in accordance with Procurement Legislation.

27.2 All variations of current or future Relevant Above-Threshold Contracts will need to be varied in accordance with the applicable Procurement Legislation. all variations should be reviewed by Legal Services prior to the agreement of any variation. Permitted modifications include:

- Change provided for in the contract.
- Urgency and protection of life (PA 2023).
- Unforeseen circumstances (subject to the change not exceeding 50% of the value of the original contract under PCR 2015; and the proposed change does not increase the estimated value of the contract by more than 50% under PA 2023).
- Materialisation of a known risk (subject to the change not increasing the estimated value of the contract by more than 50% PA 2023).
- Additional goods, services or works (under PCR 2015 provided that any increase in price does not exceed 50% of the value of the original contract; and under PA 2023 provided the modification would not increase the estimated value of the contract by more than 50%).
- 'Convertible contract' (PA 2023).
- Any other permitted modification allowed under the applicable Procurement Legislation.

27.3 For Relevant Above-Threshold Contracts, Officers are required to complete a waiver before entering into or applying a contract modification (see Rule 17 above) such as before a contract change notice is published.

27.4 For Variations to Relevant Below-Threshold Contracts (subject to whether it is a convertible contract) and light touch contracts, input from the procurement team should be requested by Officers. A waiver will need to be completed.

PA 2023

27.5 Before any modification to a contract can be made, a contract change notice must be published unless there is an exception (such as if the modification increases or decreases the estimated value of the contract by 10% or less for goods or services or 15% or less for works; or the contract term by 10% or less of the maximum term provided for on award).

27.6 Under the PA 2023, changing the term of a contract term by more than 10% of the maximum term is considered substantial (calculated in months). Officers must therefore ensure they account for all possible extensions in all Relevant Contracts.

27.7 If the change increases or decrease the estimated value of the contract by 10% or less for goods or services or 15% or less for works unless the modification is permitted in relation to novation or transfer of the contract on corporate restructuring (PA 2023).

27.8 Modifications apply to the value of the contract at the time of the modification (i.e. the estimated value of the contract immediately before the modification is made) - therefore if

more than 1 modification is applied to the contract, the value will be the new value (including the previous modification) rather than the old value.

27.9 Officers may observe a voluntary standstill period of at least 8 working days from the day of publication of the contract change notice and it is strongly recommended to do so to provide additional protection for the Council. If Officers are choosing not to apply the voluntary standstill period, this would need to be discussed and agreed with the procurement team.

27.10 Officers must publish either the modification or the modified contract within 90 days of entering into it, provided that a contract change notice is required to be published and the estimated value of the contract is more than £5 million.

Public Contracts Regulations 2015 (as amended) (PCR 2015)

27.11 Officers must note that any changes made to Relevant Above-Threshold Contracts that started their procurement process or existed before the PA 2023 comes into effect are still subject to the modification rules of the PCR 2015. It is important to check when the contract was procured and if calling off a framework agreement, check when the framework agreement was established. If they were procured with the PCR 2015 were in force, then the PCR 2015 will apply to modifications under them.

27.12 Permitted modifications are allowed if the value is below 10% of the initial contract value for service and supply contracts and 15% of the initial contract value for works contracts, provided that the modification does not alter the overall nature of the contract. A waiver will need to be completed.

PART 4

CODES AND PROTOCOLS

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 Council's activities, through the actions of its Officers, are conducted to the highest standards, as expected of Local Government, by:

(b) detailing existing laws, regulations and conditions of service.

(c) providing further guidance to assist employees in their day-to-day work.

(d) 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 Officers working under a Contract of Employment to the Council. All Officers 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 Officers 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 Officer behaviour should be consistent with the seven principles of public life laid down by the Committee on Standards in Public Life, as follows:

(a) Selflessness

(b) Integrity

(c) Objectivity

(d) Accountability

(e) Openness

(f) Honesty

(g) Leadership

1.6 Officers 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 Officers 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 Council of pecuniary or personal interests in contracts which the Council 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 Officers corruptly to accept any gifts or consideration as an inducement or reward for:

i. doing, or refraining from doing, anything in their official capacity; or

ii. showing favour or disfavour to any person in their official capacity.

iii. 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

Officers 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 Council is proposing to enter into, in accordance with the procedures laid down in Sections 7 and 8 of the Code, and observe the procedures for dealing with gifts and hospitality in Section 9.

(c) You should be aware that any departure from these standards will be treated as a most serious matter, both under the terms of the Council's disciplinary procedures, and where necessary, through the processes of law.

(3) STANDARDS OF CONDUCT

3.1 Background

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

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

Similar provisions are incorporated in the national conditions of service of Chief Executives and Chief Officers

3.2 Expected Standard

Officers are expected to give the highest possible standard of service to the public, to provide appropriate advice to Councillors and fellow Officers 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 Council'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 Officers.

(b) Officers can brief Councillors in accordance with the Councillor/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 Councillor 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) Officers 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) Officers, other than Chief Officers , may not act on a Councillor decision unless instructed, or given delegated authority to do so by the Chief Executive or Chief officer.

(d) Officers 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) Officers will not be required to advise political groups and should not do so unless specifically required to do so by the Chief Executive.

(g) Officers must always treat Councillors with due respect as the directly elected representatives of the community, and our employers.

4.1.2 Standard

Officers 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 Chief Officer 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 Support, 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.

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 Officers. Local authority Officers 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; 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

Officers 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 Human Resources.

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/Councillor Protocol.

4.3.2 Expected Standard

The roles and responsibilities of Councillors and Officers are distinct but heavily interdependent. Officers 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 Councillor/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'. Officers should be aware of the types of information which are, and are not open, and act accordingly in handling that information. Officers 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 Procedure Rules in **Part 3 Section 4** of the Council's Constitution.

(c) The Council has issued a statement of Data Protection Policy which constitutes a part of Officers' terms and conditions of service. Further information and advice on responsibilities under the Act are available from the Information Governance Manager, as the Council's Data Protection Officer.

5.2 Expected Standard

Officers 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, Chief Officers and the Communications and Media Relations Manager and certain specifically nominated Officers are authorised to make statements on behalf of the Council.

(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 Officers 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 Officers 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 Chief Officer Governance which will be accessible only by the Chief Executive, Chief Officers and Internal Audit, all of whom may advise Officers 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 Officers are required to complete written declarations for inclusion in the register. Only the following declarations will be required from Officers:

(i) Those made on a permanent basis by Officers 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 an annual 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 Council's interests, including nil returns. This must be done within 28 days of taking up a Politically Restricted Post and when there are significant changes to the officer's responsibilities or the officer's circumstances change or a new interest arises. A form for declaration of interests is available on the intranet HERE. Officers who do not hold a Politically Restricted Post may use the same form to make similar declarations on a voluntary basis for inclusion in the register.

(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 Chief Officer (Chief Officers 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 Support, 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:-

i. any interest in property within the Council's area,
ii. any outside employment;
iii. any financial interests in outside bodies and businesses within the Council's area;
iv. membership of any charity or body directed to charitable purposes;
v. any body whose principal purposes include the influence of public opinion or policy;
vi. 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 Council'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 Chief officer Governance within twenty-eight 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 Officers undertaking additional employment, but stresses to Officers of all grades that they should not undertake outside work if:

i. their official duties overlap in some way with their proposed work;

ii. it causes a conflict of interest; or

iii. 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 Council on behalf of an applicant for planning consent).

(c) It is irrelevant whether or not the work is paid. Officers' 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 Council, conflict with or react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.

(d) These provisions are applicable to all employees.

7.2 Expected Standard:

Officers 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 Chief Officer in writing, before undertaking any outside work, paid or unpaid, see 7.1 above

(b) Chief Officers 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 Chief Officer 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 Chief Officer, 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 Email 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 Chief Officer or the Chief Executive.

8 GIFTS AND HOSPITALITY

8.1 Background

(a) From time to time, Officers 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 Officers should be justifiable as being in the public interest, and should be on a scale appropriate to the occasion.

(d) Officers 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 Council, and/or when a gift or hospitality is offered to an individual rather than a group of Officers.

(e) Officers will be entitled to take advantage of any Council services offered to them at a reduced rate, as determined by the Chief Executive.

8.2 Expected Standard

Officers 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:

i. 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.

ii. 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.

iii. Participation in, or attendance at subsidised Council services, activities or events provided with the approval of the Chief Executive.

(b) You should regard the following as unacceptable:

i. 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.

ii. 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.

iii. 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 Chief Officer (Chief Officers should inform the Chief Executive). With the exception of gifts clearly falling into the categories described in paragraph 8.3.1(a), your Chief Officer should ensure that the details are recorded in the register of gifts maintained by the Chief Officer Governance , which should include:

i. details of who offered or presented the gift;

ii. who received the gift;

iii. a brief description of the gift and estimated value if possible;

iv. 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 Chief Officer 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 to Internal Audit

(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:

i. 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 Council.

ii. Offers of hospitality by other non-commercial bodies.

iii. Working lunches provided to enable you to continue discussions with other parties.

iv. 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:

i. Holidays, weekend breaks.

ii. Free access to facilities, for example the payment of golf club subscriptions, membership of health, fitness or social clubs.

iii. Personal use of company flats or offers of hotel accommodation.

iv. 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.

i. 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.

ii. Tickets to events such as theatres, cabarets, concerts, and sporting events, especially those unconnected with the local community.

iii. 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 Chief Officer (Chief Officers should report to the Chief Executive). The Chief Officer Governance 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, Chief Officers 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 Council 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

Officers 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 Chief Officer (Chief Officers should inform the Chief Executive). Chief Officers should ensure that they are recorded in the register of sponsorship maintained by theChief Officer Governance , which should include:

(i) details of who offered the sponsorship;

(ii) the service or event being sponsored;

(iii) a brief description of the sponsorship, and estimated value if possible;

(iv) details of whether the offer was accepted or not;

(v) authorisation of the action taken (including the reasons) by the Chief Officer or his/her authorised deputy.

(c) Should there be any doubt as to the acceptability of an offer of sponsorship, the advice of your Chief Officer or the Chief Executive, or alternatively the Monitoring Officer should be sought.

(d) If the Council 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 Chief Officer (Chief Officers should report to the Chief Executive) and to have it entered in the register of interests maintained by the Chief Officer Governance..

10 USE OF FINANCIAL RESOURCES

10.1 Background

(a) Sound financial management covers all aspects of the Council's work so as to:

i. safeguard its assets

ii. promote operational efficiency in accordance with policies and directives

iii. protect Officers at all levels

10.2 Expected Standard

Officers 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 Council. 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 Chief Officers 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 Chief Officers or the Chief Executive, or alternatively from Internal Audit.

11 THE SELECTION OF DEVELOPERS, CONSULTANTS OR CONTRACTORS

11.1 Expected Standard

Officers 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 Chief officer (Chief Officers report to the Chief Executive).

12 SEPARATION OF ROLES DURING TENDERING

12.1 Expected Standard

Officers 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 Council.

(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 Chief Officers (Chief Officers report to the Chief Executive) and have it entered in the register of interests maintained by the Chief Officer Governance 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 Officers 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 Officers 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) Officers involved in making appointments will be expected to be aware of, and comply with the following:

i. 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.)

ii. 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

Officers 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 Chief Officer (Chief Officers 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 Chief Officer (Chief Officers 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. The Standards Committee are responsible for administering the Councillor's Code of Conduct.

Introduction

The City Council has adopted the following code dealing with the conduct that is expected of Councillors and co-opted members of the Council 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 an unlimited fine 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 Officers, 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 PUBLIC LIFE

The Code is intended to be consistent with the following seven principles, introduced by the Committee on Standards in Public Life, as required by the Localism Act 2011.

1. Selflessness

Holders of public office should act solely in terms of the public interest.

2. 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.

3. Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

4. 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.

5. 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.

6. Honesty

Holders of public office should be truthful.

7. 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 Council;

(b) the Cabinet of the Council;

(c) any of the Council'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 Council (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 Council, 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 Council to breach the Equality Act 2010 (or subsequent legislation)

(b) bully[1] any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be:

[1] 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; picking on someone.

(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 their Council'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) 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

(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/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

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 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 Council, 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 them, 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:

(a) Fail to notify the Monitoring Officer within twenty-eight days of election of any disclosable pecuniary interest

(b) Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register

(c) Fail to notify the Monitoring Officer within twenty-eight days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting

(d) Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest.

(e) 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.

(f) 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 an unlimited fine 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 Council; or your election or appointment to office (where that is later), notify the Monitoring Officer in writing of the details of your other 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 the Council;

(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. The form to submit these details is available on the Intranet HERE

(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 the Council, 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 the Council 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 Council 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 the Council 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 Council'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's 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 the Council 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 judgement 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 the Council 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 the Council in respect of—

(i) housing, where you are a tenant of your Council 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.

(v) 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.

13. Offers of Gifts and Hospitality

(1) Councillors should not normally accept gifts or hospitality. While gifts or hospitality can be offered for benign reasons it is important for your reputation, the reputation of the City Council and for the reassurance of the public that decision-making is not being improperly influenced, that you do not routinely accept gifts or hospitality offered to you as a Councillor.

(2) You must notify the Monitoring Officer in writing of 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. Forms are on the Intranet HERE for Councillors. However, simply accepting gifts or hospitality and then registering it does not mean that it may be seen as reasonable. Accepting an expensive meal from somebody who is negotiating for a contract with the council, for example, is not 'made right' by being recorded on a public register.

(3) There will be times when turning down hospitality or gifts could be seen as causing unnecessary offence. For example, if you have been invited as a ward councillor to a local festival or faith celebration along with other members of the community then it may be entirely appropriate to accept the hospitality. However, you should always exercise particular caution if the organisers are involved in ongoing negotiations with the City Council on a particular matter.

(4) Where you are offered a gift or hospitality but decline it you should nevertheless notify the Monitoring Officer. That helps Monitoring Officer to identify if there are any patterns which indicate that some person or organisation might be seeking to influence Councillors.

(5) Even for gifts or hospitality under £50 you should always notify the Monitoring Officer if the gift/hospitality could be perceived as something given to you because of your

position. This is especially relevant where the gift or hospitality is from somebody who you know has put in an application, or is about to put in an application, to the City Council, even where that hospitality falls below £50. While that would not be a matter for the public register it again allows the Monitoring Officer to be aware of any patterns.

(6) Any accumulation of small gifts you receive over two to three months from the same person or organisation that add up to £50 or over should also be registered, in the interests of transparency.

Part 4 - Section 3

ARRANGEMENTS FOR DEALING WITH ALLEGATIONS THAT A MEMBER OF THE CITY COUNCIL OR A MEMBER OF A PARISH COUNCIL WITHIN THE DISTRICT OF THE COUNCIL HAS FAILED TO COMPLY WITH THE RELEVANT CODE OF CONDUCT. LOCALISM ACT 2011 SECTION 28

These arrangements are made under Sections 28(6) and (7) of the Localism Act 2011, and set out how the City Council will deal with allegations that a city or parish councillor has failed to comply with the relevant Code of Conduct. These arrangements provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided should be investigated, and whose views can be sought by the Council at any other stage, or by a Councillor against whom an allegation has been made. The City Council has appointed an Independent Person and a reserve. It is envisaged that a Councillor complained of will not consult with the same Independent Person who is advising the Monitoring Officer or the Standards Committee.

1. **Making an Allegation**

(1) An allegation that a city councillor or parish councillor has failed to comply with the requirements of the relevant Code of Conduct must be made to:

(a) The Monitoring Officer, Lancaster City Council, Town Hall, Lancaster LA1 1PJ.

(2) An allegation may be sent by email, or other any other media with any supporting information to the Monitoring Officer. A form for this purpose is available on the Council's website https://www.lancaster.gov.uk/information/complaints-comments-and-questions/complaining-about-a-councillor

(3) The allegation must be about one or more named members of the following authorities: Lancaster City Council or a parish or town council within its District. These are Aldcliffe-with-Stodday, Arkholme-with-Cawood, Bolton-le-Sands, Carnforth, Caton-with-Littledale,Cockerham, Ellel, Gressingham, Halton-with-Aughton, Heaton-with-Oxcliffe, Hornby-with-Farleton, Ireby and Leck, Melling-with-Wrayton, Middleton, Morecambe, Nether Kellet, Over Kellet, Over Wyresdale, Overton, Quernmore, Scotforth, Silverdale, Slyne-with-Hest, Tatham, Thurnham, Warton, Wennington, Whittington, Wray-with-Botton, Yealand Conyers and Yealand Redmayne.

(4) The allegation must be that the Councillor(s) has, or may have, breached the relevant Code of Conduct. The Code of Conduct adopted by a parish or town council is available on that council's website or from the relevant parish or town council clerk.

(5) Anyone making an allegation should provide full details of the conduct complained of and how it is alleged to constitute a breach of the relevant Code of Conduct. Details of the person making the allegation will generally be provided to the Councillor, unless the Monitoring Officer considers that there are special reasons for keeping this information confidential.

2. **Procedure once an allegation is received**

(1) Once an allegation is received the Monitoring Officer will provide a copy of the allegation or a summary of the circumstances to the Councillor complained of, and advise that the Councillor may submit any comments to the Monitoring Officer if the Councillor wishes to do so.

(2) In appropriate cases, the Monitoring Officer may seek to resolve the matter informally. This may involve the Councillor accepting that his/her conduct was unacceptable and offering an apology.

(3) If informal resolution is not possible, the Monitoring Officer will, in consultation with the Independent Person, the Chair of the Standards Committee (or the Vice-Chair if the Chair is a member of the same group within the City Council as the Councillor complained of), and, if appropriate the Chief Executive, determine whether the complaint merits formal investigation, or whether no further action should be taken.

(4) The Monitoring Officer may refer particular complaints to the Standards Committee if they feel that it would be inappropriate for them to take the decision, and will generally do so where the complainant is the Chief Executive or a Chief Officer , or where the complainant or the Councillor complained of is the Leader of the Council or a Group Leader. There may be other circumstances where the Monitoring Officer considers that it would not be appropriate for them to take the decision.

(5) Whilst each allegation will be considered on its own facts, the assessment criteria (**Part 4 - Section 3 (A)**) will be applied in considering whether or not an allegation should be investigated.

(6) If an allegation is not referred for investigation, the complainant has no right of appeal. The Monitoring Officer will report to each scheduled Standards Committee meeting on the complaints received and decisions taken on them. The report will not be open to the press and public as it will contain information relating to named individuals.

3. **Investigation**

(1) Where a complaint is referred for investigation, the Monitoring Officer will arrange for the investigation to be undertaken by an Officer of the Council, or by an external investigator. The Investigation Procedure is set out in **Part 4 – Section 3 (B)**.

(2) If the investigating Officer finds no evidence of failure to comply with the Code, the Monitoring Officer is authorised to close the matter, in consultation with the Independent Person, Chair (or Vice-Chair if the Chair is a member of the same group within the City Council as the Councillor complained of) and, if appropriate, the Chief Executive. However, the Monitoring Officer may refer the matter to the Standards Committee if they considers this would be appropriate. The Monitoring Officer will in any event provide a summary to the next meeting of the Standards Committee.

(3) Where a formal investigation finds evidence of failure to comply with the Code of Conduct, there may yet be an opportunity for local resolution, avoiding the need for a hearing. Sometimes the investigation report can cause a Councillor to recognise that the conduct was at least capable of giving offence, and the complainant may be satisfied by recognition of fault or an apology. The Monitoring Officer has authority to

agree a local resolution, in consultation with the Independent Person, the Chair (or Vice-Chair if the Chair is a member of the same group within the City Council as the Councillor complained of) and, if appropriate, the Chief Executive, subject to the complainant being satisfied with the outcome, and subject to a summary report to the Standards Committee.

(4) In all other cases where the formal investigation finds evidence of a failure to comply with the Code of Conduct, the Standards Committee will hold a hearing at which the Councillor complained of may respond to the investigation report and the Committee will determine whether the Councillor did fail to comply with the Code of Conduct and what action, if any, is appropriate. The Committee's Pre-hearing and Hearing Procedures is set out in **Part 4 – Section 3 (C) and (D)**. The Hearing Committee will be advised by an Independent Person and by the Monitoring Officer.

(5) The sanctions open to the Standards Committee are:

i. to censure, to report the findings to Full Council, (in effect "naming and shaming"),

ii. to recommend the Councillor's Group Leader to remove the Councillor from any or all Committees,

iii. to withdraw Council facilities, such as a computer, or to exclude the Councillor from the Council's offices with the exception of meeting rooms as necessary for attending meetings of Council/Committee.

There is no right of appeal.

(6) With regard to parish councillors, the Standards Committee may make a recommendation to the parish council on action to be taken in respect of the councillor. Parish councils will be under no obligation to accept any such recommendation.

4. **Conflict of Interest**

(1) It should be noted that the above arrangements provide for the Vice-Chair rather than the Chair to be consulted at all stages of the process if the Chair is of the same group within the City Council as the Councillor complained of. This is because it is recognised that the greatest likelihood of a perception of conflict of interest arises in this situation.

(2) Where a complaint is made by a City Councillor about another City Councillor, there could also be a perception of conflict of interest where the Chair (or Vice-Chair) is consulted and is of the same group as the complainant. It is impossible to cover all the possible scenarios, but in such circumstances the Monitoring Officer will discuss with both the Chair and the Vice-Chair any possible perceived conflicts of interest so that the procedure is as transparent as possible.

Part 4 Section 3 (A)

LANCASTER CITY COUNCIL STANDARDS COMMITEE – ASSESSMENT CRITERIA

1. The Monitoring Officer will reject a complaint if it fails to meet one or more of the following tests:

    a. The complaint is against one or more named Councillors or co-opted members of the City Council or a parish or town council within the District.

    b. The Councillor complained of was in office at the time of the alleged conduct and the Code of Conduct was in force at the time.

    c. The complaint, if proven, would be a breach of the Code of Conduct under which the Councillor was operating at the time of the alleged misconduct.

2. The Monitoring Officer (following consultation with the Independent Person, the Chair (or Vice-Chair of the Committee) and the Chief Executive, if appropriate) or the Standards Committee may decide to refer a complaint for investigation where the complaint discloses a potential breach of the Code of Conduct sufficiently serious, if proven, to warrant a sanction, and where it would be in the public interest to investigate.

3. Circumstances where the Monitoring Officer (following consultation with the Independent Person, the Chair (or Vice-Chair of the Committee) and the Chief Executive, if appropriate) or the Standards Committee may decide that no action should be taken in respect of a complaint:

    a. Where the complaint is about someone who is no longer a member of the City Council or a parish or town council

    b. Where a substantially similar allegation has previously been made by the complainant to the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority

    c. Where the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now. It is acknowledged, however, that where a delay has arisen as a result of criminal or other legal proceedings, it may be appropriate to refer the complaint for investigation or other action.

4. Where the allegation is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter.

5. When the allegation discloses a potential breach of the Code of Conduct, but the complaint does not appear serious enough to warrant further action.

6. Where the complaint appears to be malicious, politically motivated or tit-for-tat, unless a serious matter is raised in the complaint.

Part 4 – Section 3 (B)

LANCASTER CITY COUNCIL STANDARDS COMMITTEE PROCEDURE FOR CASES REFERRED FOR INVESTIGATION

1. When an allegation is referred by the Monitoring Officer or the Standards Committee for investigation, the Monitoring Officer will within five working days or as soon as reasonably practical, inform the Councillor who is the subject of the allegation of failure to comply with the Code of Conduct, ("the Subject Councillor"), the person who made the allegation ("the Complainant"), and the clerk to any parish council concerned that the matter has been referred for investigation.

2. The Monitoring Officer may appoint an Investigating Officer who may be an Officer of the Council, or an external investigating Officer. The Investigating Officer may appoint persons to assist him/her in the conduct of the investigation, and may obtain such professional advice as may be necessary. The Monitoring Officer will advise the Subject Councillor and the Complainant of the appointment of the Investigating Officer.

3. The Investigating Officer may make such inquiries as they think necessary or expedient for the purposes of conducting the investigation, and may request any person to give such information or explanation as the Investigating Officer thinks necessary or expedient for the purpose of conducting the investigation. The Investigating Officer may require any of the relevant authorities concerned to provide such advice and assistance as may reasonably be needed to assist in the investigation, and to provide reasonable access to such documents in the possession of that authority as appear to the Investigating Officer to be necessary for the purpose of conducting the investigation.

4. Statements will be prepared and agreed with each person interviewed during an investigation, including the Subject Councillor. The Subject Councillor will be advised that they may be accompanied by a professional representative or advisor, a Group colleague or friend during the interview. Any other person interviewed may be accompanied by a friend or representative if they so wish. Any accompanying person must either be under a professional duty of confidentiality (a solicitor or legal representative) or have signed a confidentiality agreement in respect of any information disclosed during the interview or hearing that is not in the public domain.

5. The Investigating Officer will complete the investigation within a reasonable period of time according to the nature of the complaint and the extent of the investigation required.

6. The Investigating Officer, having concluded the investigation, will consider whether to produce a draft report before the final report. A draft report may be appropriate where the facts are complex or ambiguous, or where the facts are disputed. Any draft report will be issued to the Subject Councillor and the Complainant for review and comment, and will indicate that it does not necessarily represent the Investigating Officer's final finding.

7. If the Investigating Officer issues a draft report, he/she will consider whether the responses reveal a need for further investigation or for changes to the report. In some complex cases, the Investigating Officer may wish to issue a second draft report before the final report.

8. The Investigating Officer's final report will include all relevant documents, and copies of all witness statements obtained during the course of the investigation. The report will commence with a statement of the Investigating Officer's finding. The finding will be either that there has been a failure to comply with the Code of Conduct of the authority concerned, or as the case may be any other authority concerned ("a finding of failure"), or that there has not been a failure to comply with the code of conduct of the authority concerned, or as the case may be, of any other authority concerned ("a finding of no failure").

9. The Investigating Officer will submit the final report to the Monitoring Officer.

Part 4 – Section 3 (C)

PRE-HEARING PROCEDURE

1. Where an investigation report has found that there has been a breach of the Code of Conduct, and the matter cannot otherwise be resolved by local resolution, for example by the Subject Councillor admitting the breach and apologising, a hearing will be arranged. The hearing will generally be a meeting of the Committee convened specifically for that purpose.

2. A copy of the investigation report will be sent to the Subject Councillor, the complainant, the clerk to the parish council if the complaint relates to the Subject Councillor's conduct as a parish councillor, and to the Independent Person.

3. The Subject Councillor will be asked for a written response within 15 working days, which response shall set out the Subject Councillor's reply to the Investigating Officer's report and shall state whether he/she:

    a. disagrees with any of the findings of fact in the report, giving the reasons for any disagreement

    b. wishes to be represented by a solicitor or barrister, or by any other person

    c. wishes to give evidence to the Committee, either orally or in writing

    d. wishes to call relevant witnesses to give evidence to the Committee

    e. wishes any part of the hearing to be held in private

    f. wishes any part of the Investigating Officer's report or other relevant documents to be withheld from the public.

4. The Subject Councillor shall be informed that if, at the meeting of the Committee, they seek to dispute any matter contained in the Investigating Officer's report without having previously notified the intention to do so, the Committee may refuse to allow the disputed matters to be raised unless satisfied that there are good reasons why they have not been raised beforehand.

5. Upon receipt of the Subject Councillor's response, the Investigating Officer shall be invited to comment on it within ten working days, and to say whether or not they:

    a. wishes to call relevant witnesses to give evidence or submit written or other evidence to the Committee

    b. wishes any part of the hearing to be held in private

    c. wishes any part of the report or other relevant documents to be withheld from the public

6. Upon receipt of the Investigating Officer's response, the Monitoring Officer or other legal adviser will consider the responses of the Subject Councillor and the Investigating Officer and set a date for the hearing in consultation with the Chair of the Committee.

7. The Subject Councillor and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chair of the Committee may limit the number of witnesses to be called, if he/she believes the number requested is unreasonable and that some witnesses will simply be repeating the evidence of earlier

witnesses, or else not providing evidence that will assist the Committee to reach its decision.

8. Nothing in this procedure shall limit the Chair of the hearing from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Committee to reach its decision.

9. The Monitoring Officer/Legal Adviser, in consultation with the Chair and the Independent Person, will:

    a. confirm a date, time and place for the hearing

    b. confirm the main facts of the case that are agreed

    c. confirm the main facts that are not agreed

    d. provide copies of any written evidence to the relevant parties

    e. confirm which witnesses will be called by the parties

    f. provide the parties with copies of the proposed procedure for the hearing, specifying which parts of the matter, if any, may be considered in private

Part 4 – Section 3 (D)

HEARING PROCEDURE

1. The Hearing Committee shall decide, on a balance of probabilities, on the evidence presented to it, whether the complaint is upheld.
2. All matters shall be decided by a simple majority of votes cast. If there are equal numbers, the Chair shall have a second and casting vote.
3. The Independent Person shall attend the hearing in an advisory, non-voting capacity.
4. The meeting will be open to the press and public unless confidential or exempt information is likely to be disclosed.
5. The procedure for the hearing shall be as set out below, but the Chair may agree to vary this procedure in any particular instance where he/she is of the opinion that such variation is necessary in the interests of fairness.
6. The Subject Councillor may be represented or accompanied during the meeting by a solicitor or barrister, or with the permission of the Committee, another person. It is the responsibility of the Subject Councillor to arrange any representation.
7. The Committee may take legal advice from its legal adviser at any time during the hearing or during its deliberations. The substance of any advice given to the Committee will be shared with the Subject Councillor and Investigating Officer if they are present at the hearing.
8. At the start of the hearing, the Chair shall introduce each of the members of the Committee, the Independent Person, the Subject Councillor (if present), the Investigating Officer (if present) and any other Officers present, and shall then explain the procedure which the Committee will follow in the conduct of the hearing.
9. The Committee shall then confirm that it is quorate, and deal with any disclosures of interests.
10. If the Subject Councillor is not present at the start of the hearing:
    a. The Chair will ask the Monitoring Officer/Legal Adviser whether the Subject Councillor has indicated his/her intention not to attend the hearing
    b. The Committee shall then consider any reasons which the Subject Councillor has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend
    c. If the Committee is satisfied with such reasons, it shall adjourn the hearing to another date
    d. If the Committee is not satisfied with such reasons, or if the Subject Councillor has not given any such reasons, the Committee shall decide whether to consider the matter and make a determination in the absence of the Subject Councillor, or to adjourn the hearing to another date.

11. After the preliminary procedures, the Committee will consider whether or not there are any significant disagreements about the facts contained in the Investigating Officer's report.

12. If there is disagreement, the Investigating Officer will present the evidence which is relevant to the facts in dispute. With the permission of the Committee, witnesses can be called to give relevant evidence. The Subject Councillor, the Committee members and the Independent Person may ask questions of the Investigating Officer or any witness.

13. The Subject Councillor or his/her representative will then present the evidence that is relevant to the facts in dispute. With the permission of the Committee, witnesses can be called to give relevant evidence. The Investigating Officer, the Committee members and the Independent Person may ask questions of the Subject Councillor or any witnesses.

14. If the Subject Councillor disagrees with any relevant fact in the report without having given prior notice, he/she must give good reasons for not mentioning it before the hearing. After considering the Subject Councillor's explanation, the Committee may continue with the hearing, relying on the information in the report, may allow the Subject Councillor to make representations about the issue and invite the Investigating Officer to respond and call any witnesses as necessary, or may postpone the hearing to arrange for appropriate witnesses to be present.

15. The Committee will consider in private, with the Independent Person, all the evidence which it has heard in order to establish its findings of fact, and to reach a conclusion as to whether there has been a failure to comply with the Code of Conduct. Depending on the complexity of the case, this may be done in two stages, with the Committee first hearing evidence and making findings of fact, and then hearing representations as to whether, on those facts, there has been a failure to comply with the Code of Conduct and making a finding on that issue.

16. At any stage in the consideration of the matter, the Committee may return to ask further questions of the Investigating Officer or the Subject Councillor or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.

17. At the conclusion of the Committee's deliberations, the Chair will advise the Subject Member and the Investigating Officer of their findings.

18. If the Committee concludes that the Subject Member has failed to comply with the Code of Conduct, the Chair will invite representations from the Investigating Officer and the Subject Member as to what action, if any, it should take, and will take advice also from the Independent Person. The Committee may ask questions of the Subject Member and the Investigating Officer. The Subject Member will be invited to make any final relevant points.

19. The Committee shall then consider in private, with the Independent Person, whether to impose a sanction, and, if so, what sanction to impose and when that sanction should take effect.

20. The sanctions open to the Committee are:

    - to censure the Subject Member

- to report its findings to full Council
- to recommend the Subject Member's Group Leader to remove the Member from any or all Committees, or, if appropriate, to recommend the Leader to remove the Member from Cabinet
- to withdraw facilities, such as a computer, or exclude the member from the Council's offices with the exception of meetings rooms as necessary for attending meetings of Council/Committees

21. If the finding relates to the Subject Member's conduct in his/her capacity as a parish councillor, the Committee will report its findings to the parish council, and may make recommendations to the parish council on sanctions.

22. In deciding to impose a sanction, the Committee shall consider all the relevant circumstances.

23. The Chair will announce the decision of the Committee. Written notice of the findings of the Committee will be given as soon as is reasonably practicable to the Subject Member. If the complaint was against the Subject Member as a parish councillor, written notice of the findings of the Committee will be sent to the clerk to the parish council.

24. The Committee may consider making any recommendations to the authority concerned with a view to promoting higher standards of conduct among its members.

25. The decision of the Committee, whether or not there has been a finding of breach of the Code of Conduct, will be made public.

PART 4 - SECTION 4

Protocol on Councillor/Officer Relations

1. INTRODUCTION

1.1 The purpose of this protocol is to guide Councillors and Officers in their relations with one another, to define their respective roles and to provide guidance for dealing with particular issues that may most commonly arise or cause concern.

1.2 However, given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or exhaustive. It is hoped that the general approach set out in the protocol will serve as a guide in dealing with other issues that may not be specifically covered.

1.3 The protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Councillors and Officers. The shared object of these Codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.

2. ROLE OF COUNCILLORS AND OFFICERS

2.1 Both Councillors and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a whole, and they are accountable to the Chief Executive. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council and Cabinet, and the various Committees.

2.2 The Council's Constitution sets out the clear distinction between the roles of Councillors and Officers. Councillors will perform roles on the Cabinet, and on the Regulatory and Overview and Scrutiny and other Committees, in addition to sitting as members of the Full Council. They may also represent the Council on outside bodies. Officers are employed by and serve the whole Council, and are accountable to the Chief Executive. They provide support to the Cabinet, the Regulatory Committees and Overview and Scrutiny functions of the Council, providing impartial advice and implementing the decisions of the Council, the Cabinet and Committees. They may also make decisions under powers delegated to them.

2.3 Councillors should not get involved in the day to day operational management of services. Equally, Officers should not get involved in politics.

2.4 Officers are responsible for advising on and implementing policies, and for the delivery of services in the manner that they consider is most appropriate given their managerial and professional expertise. Councillors would not be expected to be involved in the detail of implementation, but can expect reports on progress, and in certain circumstances, at Overview and Scrutiny meetings, can require Chief Officers to account for their decisions.

2.5 It is appropriate, however, for Councillors to propose initiatives and ideas about how things can be done better. It is essential that existing ways of doing things are challenged and reviewed. This needs to be done in a professional and constructive environment. The Constitution sets out the procedures for both the

Cabinet and Overview and Scrutiny to review existing policies and bring forward new policy initiatives. The Procedure Rules in **Part 3** also set out the process for Officer involvement with the Cabinet, the Regulatory Committees and the Overview and Scrutiny.

2.6 Mutual respect between Councillors and Officers is essential to good local government. It is important in all dealings between Councillors and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

2.7 The general obligations in the Councillors' Code of Conduct include a requirement to treat others with respect, and not to do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the Council. There is also a requirement for Councillors in making decisions to have regard to any advice provided by the Council's Chief Finance Officer and the Monitoring Officer. Any allegation by an Officer that a Councillor has failed to comply with the Code of Conduct will be dealt with under the Standards Committee's procedure for dealing with Code of Conduct complaints. As with any such complaint, the first stage will be for the Monitoring Officer to seek to resolve the matter informally.

3. OFFICER ADVICE TO GROUPS OF COUNCILLORS

3.1 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example, the Council's monthly Notice of Forthcoming Key Decisions will identify the Key Decisions that the Cabinet will be considering. Individual Councillors and/or groups of Councillors may properly call upon Officers to support and provide factual advice to their deliberations. The support provided by Officers can take many forms, ranging from a briefing meeting prior to a committee meeting, to a presentation to a full group meeting. Briefing of political groups should only be undertaken by the Chief Executive or Chief Officers , or otherwise with the approval of the Chief Executive and any information provided to the group will not as a matter of routine be passed on to other groups. However, briefing information provided to a political group, whether or not it contains confidential information, may, at the written request of that group, be passed on by the relevant Officer to other groups also.

3.2 Certain points must, however, be clearly understood by all those participating in this type of process, Councillors and Officers alike. In particular:

(a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of a 'political' nature. Officers are not expected to be present at meetings, or parts of meetings, where matters of political business are to be discussed.

(b) Similarly, where Officers provide information and advice to a group of Councillors meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and

advice to the Cabinet, Overview and Scrutiny or other Committee meeting when the matter in question is considered.

3.3 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group of Councillors, unless specifically asked to do so.

3.4 Any particular cases of difficulty or uncertainty in this area of Officer advice to groups of Councillors should be raised with the Chief Executive or, in his absence, the Council's Monitoring Officer, who will discuss them with the relevant Group Leader(s).

4. OFFICER/COUNCILLOR RELATIONSHIPS

4.1 It is clearly important that there should be a close working relationship between Cabinet members and Committee members, including their Chairs, and the relevant Chief Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an Officer's ability to deal impartially with other Councillors.

4.2 Whilst the Cabinet Leader and Committee Chairs will routinely be consulted as part of the process of drawing up agenda items for a forthcoming meeting, it must be recognised that in some situations an Officer will consider it his/her duty to submit a report on a particular matter. In these circumstances, an Officer will always be fully responsible for the contents of any report submitted in his/her name. Similarly, a Councillor will also be fully responsible for that part of any report submitted in his/her name. Any issues arising between a Councillor and an Officer in this area should be referred to the Chief Executive for his resolution. Where individual Councillors wish to place an item on a Cabinet agenda, they should notify the Chief Executive in accordance with Part 4 Section 4 of the Constitution.

4.3 In relation to action between meetings, it is important to remember that the Council's Constitution allows not only for decisions (relating to the discharge of any of the Council's functions) to be taken by the Cabinet, Committees of Council or an Officer, but also allows for an individual Cabinet member to take Key Decisions.

4.4 It must be remembered that Officers within a Service are accountable to their Chief Officer and ultimately to the Chief Executive, and that whilst Officers should always seek to assist any Councillor, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Chief Officer . Officers should also refer to Part 3 (Responsibility for Functions) and Part 7, Section 1 (Officers' Code of Conduct) in the Council's Constitution for clarification about the bounds of their responsibility.

5. UNDUE PRESSURE

5.1 A Councillor should not apply undue pressure on an Officer to do anything which he/she is not empowered to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours.

5.2 Similarly, an Officer must not seek to influence an individual Councillor to make a decision in his/her favour, nor raise personal matters relating to his/her job, nor make claims or allegations about other Officers, except in accordance with any

agreed Council procedure or in accordance with law. Councillors who receive any such approach from an Officer should advise the Chief Executive immediately.

6. CRITICISM/COMPLAINTS

6.1 It is important that there should be mutual courtesy between Councillors and Officers.

6.2 Councillors and Officers should not criticise or undermine respect for each other at Council meetings or at any other meeting they attend in their capacity as a Councillor or Officer, or in any other public forum.

6.3 Councillors should not raise matters relating to the conduct or capability of an individual Officer or Officers collectively at meetings or in any other public forum. Any such complaints should be made to the Chief Executive.

7. SUPPORT SERVICES TO COUNCILLORS AND PARTY GROUPS

7.1 Previously, the only basis on which the Council could lawfully provide support services (e.g. stationery, typing, printing, email, internet, photocopying, transport, etc.) to Councillors was to assist them in discharging their role as members of the Council. However, the current Code of Conduct does allow limited private use of Council resources by Councillors provided that when using or authorising the use by others of the resources they must -

(i) act in accordance with the Council's reasonable requirements; and

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes)

Any uncertainty about compliance with these requirements should be referred to the Council's Monitoring Officer for determination.

7.2 Democratic Support should be the first point of contact in all aspects relating to Councillor support.

8. COUNCILLORS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

8.1 Subject to the Access to Information Procedure Rules, Councillors are free to approach the appropriate Service to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should be directed to the Chief Officer, Service Manager or other nominated representative. If Councillors wish to visit Officers, they should contact the Chief Officer or Service Manager to make arrangements whenever possible.

8.2 With respect to the legal rights of Councillors to inspect Council documents, these are covered partly by statute and partly by the common law and subject to the Access to Information Procedure Rules.

8.3 Under Section 100F of the Local Government Act 1972, any Councillor may inspect any document in the possession or control of the Council which contains material relating to any business to be transacted at a meeting of the Council,

Cabinet, a Committee or Sub-Committee. This right applies irrespective of whether the Councillor is a member of the relevant committee, and extends not only to reports but also to background papers. However, the right does not apply if a document discloses "exempt" information as defined in Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 3 (the financial and business affairs of any particular person), except to the extent that it relates to any terms proposed by or to the Council in the course of negotiations for a contract, or within paragraph 6 (that the Council proposes to give a notice or order under any enactment, by virtue of which conditions or requirements are imposed on a person). These exceptions mean that a Councillor's right of access to information under the Local Government Act 1972 is slightly wider than the public right under that Act.

Further details, including information about the particular rights of Overview and Scrutiny members, are set out in the Access to Information Procedure Rules in **Part 3 Section 4**.

8.4 The common law right of Councillors is much broader and is based on the principle that any Councillor has a prima facie right to inspect council documents so far as his/her access to the documents is reasonably necessary to enable the Councillor to carry out his/her duties as a Councillor. This is referred to as the "need to know" principle. If a Councillor is a member of Cabinet or a Committee, then he/she has the right to inspect documents relating to the business of Cabinet or the committee. If a Councillor is not a member of the relevant Committee, then he/she has to demonstrate why sight of the document is necessary to enable the performance of his/her duties as a Councillor. This could be by reference to the role as Ward Councillor. Councillors have no right to a "roving commission" to examine documents of the Council. Mere curiosity is not sufficient. If the Councillor's motive for seeing the documents is indirect, improper or ulterior, then there would be no right of access at common law.

8.5 A Councillor has the same rights of access to information under the Freedom of I Information Act 2000 as any member of the public. A request must be in writing and describe specifically the information requested. The exemptions set out in the Act would be applied whoever is requesting the information. Once information has been made available in response to a Freedom of Information request, it becomes public.

8.6 From a procedural point of view, if a Councillor makes a request for information that is not routine, the request should be made to the relevant Chief Officer , who will consider first whether all the information would be made available as a matter of course to a member of the public making a similar request. If so, the information will be provided to the Councillor.

8.7 If the request is such that the information would not automatically be provided to a member of the public, the Chief Officer will consider whether the information can be provided under Section 100F of the Local Government Act 1972 or under the common law "need to know". The Chief Officer should consult with the Monitoring Officer. The final determination as to whether there is a "need to know" will be made by the Monitoring Officer. The Overview and Scrutiny Committee may hold the Monitoring Officer to account in accordance with the Overview and Scrutiny Procedure Rules.

8.8 If neither Section 100F nor the "need to know" are met, then the request will be dealt with as a Freedom of Information Act request, but without the need for the Councillor to make a specific Freedom of Information request. The Freedom of Information request will be dealt with in the normal way with advice from Legal Services. This may result in the information being provided in part, with an exemption applying to the remainder, or the request being refused in its entirety as a result of an exemption. The Councillor will be informed that the request has been considered under the Freedom of Information Act and that there is a right of internal review which will be carried out by the Monitoring Officer. Following such a review, the Councillor will be advised of the right to pursue the matter with the Information Commissioner.

8.9 Any information provided under the Freedom of Information Act can be made public by the Councillor. Information provided under the "need to know" will be provided with the caveat that it is provided to the Councillor in his/her capacity as Councillor, and is only to be used for the purpose of exercising his/her functions, and should not be made public.

8.10 The Code of Conduct provides that a Councillor must not disclose information given to the Councillor in confidence by anyone, or information which the Councillor believes, or ought reasonably to be aware, is of a confidential nature except where:

a. the Councillor has the consent of a person authorised to give it;

b. the Councillor is required by law to do so;

c. the disclosure is made to a third party for the purposes of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

d. the disclosure is reasonable and in the public interest and made in good faith and in accordance with the law.

9. CORRESPONDENCE

9.1 Correspondence between an individual Councillor and an Officer should not normally be copied (by the Officer) to any other Councillor. Where exceptionally it is necessary to copy the correspondence to another Councillor, this should be made clear to the original Councillor.

9.2 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Councillor. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a Councillor, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

10. INVOLVEMENT OF WARD COUNCILLORS

10.1 Whenever a public meeting is organised either by the Council or where the Council has been invited to attend, to consider a local issue, all the Councillors representing the Ward or Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of

consultative exercise on a local issue, the Ward Councillors should be notified at the outset of the exercise. In addition, whenever significant Council organised events or works or other activity are taking place in a locality, all the Councillors representing the Ward or Wards should as a matter of course be notified.

10.2 If an individual contacts the Council about a general Council service, for example leisure, food safety, taxi licensing or a housing benefit or Council Tax issue, such contact is unlikely to be a Ward issue, as the address of the individual is unlikely to be significant to the particular contact or complaint. In these circumstances, Officers will not generally involve the Ward Councillor.

10.3 If an individual contacts the Council about a location related issues, for example, noise from particular premises, difficulties with refuse collection in a particular street, an overhanging tree, or uneven access to council housing accommodation, then, unless the issue is 'de minimis' and can be resolved at once, the Ward Councillors will be advised of the problem and what action is being or has been taken to resolve it. It should be possible to do this on a general basis and without revealing the identity of the individual who has raised the issue. The details of the individual will not be passed on to Ward Councillors without the individual's consent.

10.4 In no circumstances will correspondence from an individual or business, or from a third party representing an individual, be disclosed to a Ward Councillor if it is marked confidential or contains personal data. If, in these circumstances, an Officer is of the view that a Ward Councillor's involvement would be valuable or that there is a need for the Ward Councillor to know of the issue, and it is not possible to do so in general terms without disclosing confidential or personal information, then the relevant individual's consent will first be obtained.

10.5 If an individual has sought assistance from one Ward Councillor in a multi-Councillor Ward, and an Officer is in contact with that Ward Councillor who is acting on the individual's behalf, information about the issue will not be shared with another Ward Councillor without the consent of the individual or the Ward Councillor who first raised the issue.

11. MEETINGS WITH THIRD PARTIES

11.1 On occasions, Councillors may be approached by individuals or companies who have proposals affecting the area or functions of the Council, and which they wish to discuss with Councillors. Councillors are reminded that, as individual Councillors, they cannot commit the Council to any contract or other agreement or course of action. Councillors are advised to make this clear to any third party with which they may have contact. Should Councillors be asked to attend a meeting with third parties, they are recommended to arrange for the meeting to take place at Council offices and with a relevant Officer present. This will enable the Officer to explain to the third party the proper decision-making process, and will protect Councillors against any subsequent claim by the third party. Normal routine activities are not intended to be subject to this recommendation.

11.2 More detailed guidance about meetings relating to planning issues is set out in the Protocol on Planning.

12. MEDIA RELATIONS

12.1 The Council has agreed Press and Media Guidelines which set out the Council's procedures for dealing with the press and media. The guidelines are subject to review from time to time.

13. ARBITRATION

13.1 The Protocol is intended to act as a guide for both Councillors and Officers. The relevant Chief Officer should deal with difficulties that arise in the first instance with the Councillor(s) concerned. The Monitoring Officer and then the Chief Executive should then consider any continuing difficulties.

13.2 Serious difficulties or breakdowns in relations that cannot be resolved through the above route should be referred to the Standards Committee for determination in accordance with the protocol. This will be very much a last resort. Every effort should be made to resolve difficulties at any early stage.

14. REVIEW OF PROTOCOL

14.1 The protocol is intended to provide Councillors and Officers with guidelines to determine their roles and their relations with each other.

14.2 It is intended to be a "live" document and will be reviewed from time to time to reflect changing circumstances. The Standards Committee is the lead Committee.

14.3 Councillors or Officers with queries about the Protocol should contact the Council's Monitoring Officer.

PART 4 SECTION 5

MEDIA GUIDELINES

1.0 Introduction – aims and objectives
2.0 Local councils and publicity
3.0 How we manage media relations
3.1 Preparing news releases
3.2 Responding to media enquiries
3.2.1 Correcting inaccurate reporting
3.2.2 Leaked items
3.2.3 Commenting on employment matters
3.3 Media briefings
3.4 Photocalls
4.0 Spokespeople
4.1 Who should act as spokesperson?
4.2 Partners
4.3 Political press releases
5.0 Publicity during elections
6.0 Social media
7.0 Filming enquiries
7.1 Filming at council meetings

1.0 Introduction – aims and objectives

The long-term aim of the council is to build and maintain a positive reputation for Lancaster City Council in the eyes of the public, its councillors and employees as well as key partners in the public, private and voluntary sectors.

The media, traditional and new, plays a huge role in informing residents about what the council does and how it spends their money. In return, it's important that the city council communicates effectively with these key providers of public information.

2.0 Local councils and publicity

Whatever methods we use to communicate, we are governed by provisions in the Local Government Acts 1972 & 1986 and the Code of Recommended Practice on Local Authority Publicity 2011. The code is based around seven principles to ensure all communications activity:

- Is lawful.
- Is cost effective.
- Is objective.
- Is even-handed.
- Is appropriate.
- Has regard to equality and diversity.
- Is issued with care during periods of heightened sensitivity.

The latest code was published in March 2011.

3.0 How we manage media relations

The council's relationship with the media, including online, is generally good, but it is important to maintain and develop our relations with the media and to be responsive to their changing needs.

There are a number of ways of generating media interest and publicising its services – press releases, press launches, photo opportunities etc.

The council runs a centralised 'press office' through the communications team. This means:

- All media enquiries (including requests to film/photograph on council premises) to the council will be directed, at least in the first instance, to the Communications Team (councillors may be contacted by the media and respond directly)
- All news releases (information aimed at giving a news 'story' to the media) on behalf of the council will be issued through the Communications Team.
- All media statements (outlining the council's response to a particular issue) on behalf of the council will be issued through the Communications Team
- All media photocalls will be arranged through the Communications Team

However, every single member of staff within the council is responsible for ensuring the Communications Team is kept informed about services and projects, which could generate positive news stories, as well as about issues which may create adverse publicity.

3.1 Preparing press releases

Officers requiring communications support for their project should contact the Communications Team to discuss the most appropriate method and channel of communicating their announcement/news.

This may include the issuing of a news release or press statement, organising a press briefing, inviting the press to a council event, or placing an announcement on the homepage of the council's website,

It is also appropriate for officers to issue a statement/s outlining a summary of a report. In this way reporters will be more likely to use the readily provided council statement which provides a brief and accurate summary of a report or clarification of an issue.

However, officers should not produce press releases for councillors on individual ward or party political issues.

The Communications Team, department heads, and relevant officers will liaise before agendas and reports are issued to the media to discuss whether such an approach is required regarding specific items.

The media "pick up" many stories from agendas and reports ahead of meetings. Whilst it would be inappropriate to offer a "comment" by the council ahead of quasi judicial meetings, such as Licensing and Planning, it is appropriate for:

- A Cabinet member who has submitted a report for the public part of a Cabinet meeting to request a media release or statement ahead of that meeting
- For the chair of Overview and Scrutiny Committee, Budget and Performance Panel and Task Groups to request a media release or statement ahead of one of these meetings.

However, media releases should be limited to providing information rather than anticipating an outcome or expressing a view as to a preferred outcome from the meeting.

Such media releases will be of a factual nature and will contain nothing that could be construed as politically motivated or biased.

Final approval for news releases (after they have been written/edited) will be sought from the originator in most cases, or relevant SLT member where an issue is of a high 5 profile nature. Councillors will be asked to approve any quotes that are attributed to them.

The Communications Team will seek approval on the factual content of releases and articles. Matters of style, presentation, punctuation, grammar etc are the responsibility of the Communications Team.

3.2 Responding to media enquiries

The Communications Team act as a one-stop shop for all media enquiries received by the council. This involves taking the enquiry and working with relevant officers/councillors to agree a response which will be passed back to the relevant journalist.

Officers should immediately alert the Communications Team when they become aware of an issue that could potentially lead to a negative news item.

Senior Leadership Team, relevant councillors and the Communications Team, should work together to prepare an appropriate position statement/response. Wherever possible this should be done ahead of a story breaking. The response can then be used if the potentially damaging issue is to be used by the media.

Occasionally, the Communications Team will ask an officer to talk directly with the media, for example to explain a technical issue or to give an in-depth background for a feature.

If an officer is approached for a comment or request by the media, other than on an occasion agreed with the Communications Team, the journalist should be immediately referred to the Communications Team. Under no circumstances should individual officers respond to enquiries themselves.

To help maintain our relationship with the media, responding to media enquiries should be a top priority for all officers and councillors. The sooner a response is provided, the greater the likelihood of contributing to the media angle and ensuring the council's position is reflected.

The council's policy is to always comment on matters which are relevant to us, although there will be occasions when we are limited in what we can say, especially if there are legal proceedings underway.

3.2.1 Correcting inaccurate reporting

The council should make every effort to correct inaccurate reporting of council issues. Discussion with the Communications Team should take place in order to examine the most appropriate form of action e.g. personal contact, personal letter to the editor, open letter, legal advice.

3.2.2 – Leaked items

Occasionally 'confidential' council items are 'leaked' to the media. The council's policy is that it does not normally comment on leaked or confidential items. However, if an item which is not 'confidential', but which has yet to go into the official public forum e.g. Cabinet/ Council, is 'leaked' it may be appropriate for the council to issue a comment. Each case will be judged individually and on its merits.

In both scenarios the Communications Team should be made aware and be involved in discussions on how to/whether to respond.

3.2.3 Commenting on employment matters

As a matter of policy the council does not comment on issues affecting individual members of staff, including those relating to disciplinary matters.

3.2.3 Media briefings

When relevant, media briefings should be arranged, to brief the press on an issue of importance to the public eg new licensing regulations, budget, etc.
This will also provide an opportunity for lead officers and councillors to build relations with the media.

Officers wishing to organise a media briefing or press launch should liaise with the Communications Team.

3.4 Photocalls

Photocalls, like news releases, are used to promote the work of the council, publicise council decisions and highlight developments in services. The relevant portfolio holder or committee chair will be asked to attend.

If a photocall is specific to one ward (such as the opening of a new children's play area) the ward councillors may also be asked to attend.

4. Spokespeople

Nearly all press releases and responses to media enquiries should be attributed to a named person, rather than a council spokesperson, as this helps to promote transparency and accountability.

4.1 Who should act as spokesperson?

Highlighting the link between elected representatives and council decisions helps residents understand the decision-making process and increase local accountability.

Quotes in news releases, attendance at photocalls and interviews will usually be offered to the relevant cabinet member or committee chair in the first instance, particularly when the story relates to council policy, new initiatives or major issues or events.

In the absence of individual cabinet members, or for matters where the council as a whole needs to be represented, the leader of the council will act as official spokesperson.

For any issues relating to the council's civic function the official spokesperson will be the mayor.

If the appropriate councillor is not available/contactable for interview at the requested time, or during the pre-election period, an officer may be considered.

Any quotes/interviews conducted by officers should keep to the technical and factual details and refrain from straying into matters of policy.

4.2 Partners

Where the council is involved in issuing a press release as part of a partnership arrangement e.g. the Community Safety Partnership, the partnership's arrangements for who to quote should be followed. This would normally be the chair of that organisation. In the case of a press release being prepared on behalf of a number of partners it may be appropriate to offer each partner an opportunity to be quoted.

Unless in exceptional circumstances, it is expected that the city council will take the lead on any joint press releases where a project has involved a piece of council land or building.

For example, if a play area has been refurbished, the council would expect to take the lead on any publicity, involving other partners (such as Friends groups) as appropriate.

4.3 Political press releases

While the Communications Team supports all council related media activity, it is unable to advise on any matters related to party politics. All press releases or responses to media enquiries will therefore be factual and avoid any political bias.

If it is necessary, from a factual point of view, for a press release to identify by name one or more of the political groups on the council, then either a spokesperson for that political group(s) should be provided with the opportunity to comment in the press release issued on behalf of the council or no politicians should be quoted at all.

Group leaders' contact details will normally be provided to the media on request and political groups will determine their own spokespersons.

4.4 Commenting in the public domain

Officers and councillors should always be aware of the comments they make when attending public meetings, as these may be recorded by the public or media, attended by the media and legitimately quoted as on the record.
Comments made via social media can equally and legitimately be used by the media so special care should be taken.

5.0 Elections

Communications during the run-up to local elections is particularly sensitive and there are restrictions which cover the period from the day when formal notice of an election is given, up to and including the day of the election (the pre-election period).
The Monitoring Officer will provide detailed guidance prior to the start of each pre-election period.

6.0 Social media

The council has a number of social media channels available corporately, and officers wishing to make use of these channels should consult the Social Networking Protocol. Councillors may have their own social media accounts to inform residents of news from their ward and discuss issues with constituents.

If a councillor creates an account in their capacity as a Cabinet member or committee chairman, the account should be limited to their role on the council and avoid the promotion of party politics.

The use of social media, including Twitter and Facebook, in council meetings is permitted by councillors as long as it does not disrupt meetings and councillors give the proceedings their full attention.

The use of social media by the press and public is permitted so long as the proceedings are not disrupted.

7.0 Filming enquiries

The council regularly provides assistance to film production companies interested in filming in the district. Any officers who are contacted by a company wishing to film in the district should direct the enquiry to the Communications Team.

7.1 Filming at council meetings

Rule 24 of the council's constitution outlines the position with regard to filming or audio recording of council meeting.

Whilst no prior permission is required, anyone wishing to film or audio-record a meeting is requested to contact the Communications Team in advance so that necessary arrangements can be made.

PART 4 - SECTION 6
PROTOCOL ON PLANNING

1 Introduction

1.1` The purpose of this Protocol is to provide Councillors with guidance regarding their role in determining planning applications, in particular, when interacting with applicants, objectors or developers. Ward Councillors, who are not members of the Planning Regulatory Committee, but who want to address the Committee, also require guidance on interaction over their contact with applicants' developers and objectors.

1.2 The protocol is designed to offer that guidance and help Councillors understand their role and the responsibilities associated with that role, and to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

1.3 In addition, the LGA has produced a protocol on "Probity in Planning". This protocol sets out detailed guidance for Councillors, but, in summary, the most important issues for Councillors to consider are as follows:

a. The Code of Conduct, and in particular whether a Councillor has a personal interest, and if so whether that personal interest is also a prejudicial interest

b. Aside from the Code of Conduct, whether there is any legal reason why a Councillor should not participate in a particular decision

c. The need to exercise care and caution in any contact with applicants, developers and objectors

d. The dangers of lobbying or being lobbied

2 Natural Justice

2.1 These principles apply throughout public administration. They are fundamental principles of administrative law and should be adhered to when determining any planning application.

2.2 The two principles of Natural Justice are:-

(a) The rule against bias

(b) The duty to act fairly/duty to hear both sides or the other side.

(a) The Rule Against Bias

I. The first principle means that no Councillor should remain and be a party to a decision which affects their own interests. This is largely covered by the process by which Councillors declare interests.

II. In addition to the common law rule against bias, Councillors must be mindful of the provisions of the Council's Code of Conduct with regard to personal and prejudicial interests, referred to below.

III. If Councillors are in any doubt about the application of the Code of Conduct, they should seek advice early, from the Monitoring Officer or Deputy Monitoring Officers – or one of their staff. Failure to comply with the Code of Conduct may have implications

for the individual Councillor, as there may be a complaint to the Standards Committee. There may also be implications for the decision-making process, with criticism of the Planning Regulatory Committee and possible challenge to the decision on the basis that a Councillor with an interest remained within the meeting room and tainted the integrity of the decision.

(b) The duty to act fairly/hear both sides or the other side - Predetermination and Predisposition

i. "Predetermination" is where a Councillor is closed to the merits of any arguments relating to a particular application, and makes a decision without taking them into account.

ii. "Predisposition" is where a Councillor holds a view in favour of or against an application, but has an open mind to the merits of the argument before making a final decision.

iii. Predisposition is acceptable; predetermination is not.

iv. The decision making body decision-making body must consider all relevant information before coming to its decision. The Councillor's mind should not be closed until the final decision is made. A Councillor's mind will be closed if they have already come to a decision on an application prior to entering the meeting room. This is predetermination. A decision will be open to challenge if a Councillor appears to have already decided how they will vote at the meeting so that nothing will change their mind. This impression can be created in a number of different ways such as quotes given in the press, and what they have said at meetings or written in correspondence.

v. However, simply listening to or receiving viewpoints from residents or other interested parties, seeking information through appropriate channels, or making comments to residents, interested parties or other Councillors or appropriate Officers will not constitute predetermination, provided that the Councillor makes it clear that they are keeping an open mind.

vi. It is not a problem for Councillors to be "predisposed", holding a view but having an open mind and being open to persuasion against that view. This includes having formed a preliminary view about how they will vote before they attend the meeting, and/or expressing that view publicly, provided it is clear that their mind is not closed to countervailing arguments.

(3) Example of Maladministration

3.1 The Local Government Ombudsman some time ago made a finding of maladministration against a council because a Councillor failed to declare an interest and leave the meeting. The Councillor had a house that was situated near to and affected by a planning proposal. The Councillor did not declare an interest and remained in the meeting room and voted on the application.

3.2 It is important to the integrity of the planning process and to open and honest governance that justice must not only be done to the planning application – but

also that it is seen to be done, thereby giving the public confidence in the system.

3.3 There have also been examples of maladministration where Councillors have encouraged their colleagues to set aside the advice of professional Officers by introducing factors which do not amount to material planning considerations. These can include personal circumstances, or land ownership issues. Councillors should always stick only to valid planning considerations.

4 Declarations of Interest and Leaving the Meeting Room

4.1 Personal interests and prejudicial interests are defined in Part 2 of the Councillors' Code of Conduct in **Part 4 Section 2**. It is important to note that if an interest does not fall within the definition of a personal interest, it cannot be a prejudicial interest.

4.2 Under the Code of Conduct, where a decision might reasonably be regarded as affecting the well-being or financial position of a Councillor, or that of a relative or close associate of theirs, or of a body to which the Councillor is appointed by the Council, or a body of which the Councillor is a member which exercises functions of a public nature, is directed to charitable purposes, or whose principal purposes are the influence of public opinion or policy the Councillor must declare a personal interest. The phrase "close associate" is not defined in the Code of Conduct both social and business associations. The Code of Conduct also requires Councillors to declare a personal interest in any matter that relates to an interest included in their register of interests.

4.3 Where a Councillor has a personal interest as set out in the Code of Conduct, they must give careful consideration as to whether that interest is also a prejudicial interest (that is, one which a member of the public with knowledge of the facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest). In other words, the interest must be perceived as likely to harm or impair the Councillor's ability to judge the public interest. Simply knowing the applicant does not necessarily equate to a prejudicial interest.

4.4 The Code of Conduct provides that a prejudicial interest does not arise where the decision does not affect the financial position of the Councillor or their interests, or does not relate to a Licensing or regulatory matter affecting the Councillor or a person or body in which they have a personal interest.

4.5 If the personal interest is not a prejudicial interest, the existence and nature of the interest must be disclosed to the meeting.

4.6 Where a Councillor has a personal interest which is also a prejudicial interest under the Code of Conduct, the general rule is that they must leave the chamber – they are not permitted to return to the public gallery for the debate and they should not be seen by other Councillors when they are making the decision. This is a requirement of the Code of Conduct. If a Councillor who had declared an interest was present or could be seen to watch the proceedings, this could be sufficient to taint the process.

4.7 However, as an exception to the general rule, the Code of Conduct allows a Councillor who has a personal and prejudicial interest to participate in the same manner that would apply to an ordinary member of the public, that is, in the public

participation part of the meeting, but the Councillor must then leave the room immediately after making such representations.

4.8 Dispensations from the Standards Committee may be available in limited circumstances. Advice on this should be sought from the Monitoring Officer.

4.9 When declaring interests at meetings, Councillors should make it clear what level of interest they are declaring, and whether the interest prevents them from taking part in the decision-making process.

5 Party Politics

5.1 A Councillor must not blindly follow the recommendations of their political party. A decision on a particular planning application should not be dictated by party politics. Party whips should never be used. The Councillor is part of the decision-making body. As far as planning applications are concerned the decision-making body is the Planning Regulatory Committee. That Committee sits in a quasi-judicial manner and each decision is made on its own merits, within the Development Plan framework, supported by legislation, government advice and other Council land use policies. Therefore, each decision has to be made on the information put before the Committee and should take into account the development plan, the impact of the individual development and any individual site characteristics – not party politics.

6 Allegations of Bias

6.1 In the Planning Regulatory Committee the time for decision-making is after the Councillors have heard all relevant considerations i.e. after the application has been presented to the Councillors in the Committee meeting and when the presentation of the application is completed. Therefore, a decision should not be made before the agenda is sent out, at a site visit or immediately before the meeting begins. If a Councillor has made their mind up before the application is fully presented then this renders the decision open to challenge. This would be on the basis that the application was predetermined, was not considered fairly and that the Councillor's conduct showed bias. To predetermine an application flies in the face of the principle of the rule 'to hear both sides'.

6.2 Council, at its meeting on the 19th November 2008, resolved that 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).

6.3 The rationale for this is that where the Council is the applicant or the landowner, and a Councillor is both a member of the Planning Regulatory Committee and also a Cabinet member with ongoing land-owning responsibilities, it is arguable that the issue of predetermination and bias might arise as a result of the Councillor's perceived proximity to the proposal through discussions in Cabinet. The Council resolution removes this risk.

6.4 However, the simple fact that a Councillor has been involved in a decision to promote the development of land in the public interest, does not necessarily prevent them from making decisions on the matters of detail. Councillors approving specific land use allocations in a Local Development Framework for example, would not be prevented from deciding subsequent planning applications. They would be

expected to use their decision-making abilities to ensure that schemes conform with the requirements of the Framework.

7 Media Exposure

7.1 A member of the Planning Regulatory Committee should never make any public declaration on an application until the application has been determined. If a Councillor makes a statement that is one sided prior to the application being determined, then that Councillor is at risk from an allegation of bias i.e. they have not kept their mind open until all matters are before them. In these circumstances it may be inappropriate for the Councillor to take part in the decision-making process to ensure the decision is not tainted. This will be particularly important where there is adverse public reaction to a planning application in the local press some time before the application has received a recommendation from Officers.

8 Parish Councillors

8.1 A member of the Planning Regulatory Committee who is also a parish councillor may speak and vote at both parish and City Council level on the same planning issue (unless the application has been made by the parish council). Councillors who take this course of action will need to declare membership of the parish council as a personal interest at City Council level.

8.2 As indicated above, members of the Planning Regulatory Committee are under an obligation to approach decision-making with an open mind, prepared to listen to all sides of the argument. Dual-hatted members of the Planning Regulatory Committee who choose to speak and vote at parish and City Council level will need to make it very clear that their vote at parish level represents a preliminary view and that they will reconsider the matter afresh at City Council level. Failure to do so may result in a challenge on the grounds of predetermination.

8.3 Different considerations will apply if the parish council is the applicant in relation to a particular planning application. In that situation a parish councillor would be likely to have a prejudicial interest at the Planning Regulatory Committee.

8.4 It must always be remembered that debate at parish council meetings takes place without professional advice from a Chartered Town Planner. It is likely, therefore, that considerations may involve matters not properly restricted to planning considerations. Councillors involved in such discussions should take specific care to qualify their views accordingly.

9 Lobby Groups

9.1 A member of the Planning Regulatory Committee who is a member of a lobbying group which has publicly expressed support for or against a planning application will need to consider whether they have a personal and prejudicial interest, and whether there is any other reason outside the Code of Conduct (such as bias or predetermination) why they should not participate in the decision.

9.2 Members of the Planning Regulatory Committee are required to declare a personal interest if they are a member of a group that lobbies or campaigns about an issue that comes up for discussion or decision. However, a member of the Planning Regulatory Committee will not have a prejudicial interest in a developer's planning proposals against which they and their lobby group campaigned if they or any other

person or body in which they have a personal interest are not affected financially by the matter. It is not relevant for the purposes of the revised Code of Conduct that the planning proposal will impact on the aims of the lobby or campaign group the member of the Planning Regulatory Committee belongs to. The Code of Conduct is focused on the actions of individuals and, as such, is about preventing improper personal advantage.

9.3 A member of the Planning Regulatory Committee who belongs to a general interest group, such as a local civic society, should disclose a personal interest where that organisation has made representations on a particular proposal, and should make it clear that the member of the Planning Regulatory Committee has reserved judgement and the independence to make up their own mind on each separate proposal.

9.4 Further guidance can be obtained from a Standards Board publication "Lobby groups, dual-hatted Councillors and the Code of Conduct", and the Standards Board Occasional Paper "Predisposition, Predetermination or Bias, and the Code" and the Monitoring Officer.

10 Contact by an Applicant Agent or Developer

10.1 It is inevitable that Planning Regulatory Committee members will be approached frequently by a variety of people during the planning process. It is therefore important that members of the Planning Regulatory Committee are clear on the nature of the advice and the comments that they give.

10.2 Members of the Planning Regulatory Committee should avoid giving any commitment or the impression of any commitment or view that is held regarding any particular planning application yet to be determined or any matter that may result in the submission of a planning application. It is inappropriate for a Committee member to meet with the Applicant or Developer to discuss the proposals. Instead they should be directed to the Chief Officer, Planning and Climate Change and his staff. Equally, any member of the Planning Regulatory Committee requiring further information about the application should contact the Chief Officer, Planning and Climate Change and his staff.

10.3 If a meeting or telephone call does takes place then members of the Planning Regulatory Committee are advised to avoid comments which infer predetermination such as:

a. 'I am completely against any development there'

b. 'I am all for any kind of economic regeneration'

c. 'The developer X normally builds to a high standard'

10.4 Any significant contact with the applicant or other parties should be reported to the Chief Officer Planning and Climate Change , explaining the nature and purpose of the contacts and the Councillor's involvement in them.

10.5 National changes in the planning system have led the Government to encourage Councillor involvement in major planning applications. The Department for Communities and Local Government stated in 2008 that "for large, complex development of strategic importance, Councillors should be engaged in the process".

10.6 There may therefore be circumstances where Officers from the planning service invite Councillors to participate in meetings regarding major, complex, planning applications. These will be minuted by Planning Officers and will be likely to involve not just Councillors and the applicant/developer, but statutory planning consultees too.

10.7 During such meetings, it is important that the decision-making function of Councillors is not compromised. Therefore, Councillors should not express views about the planning merits of the proposal that would lead to allegations of predetermination, nor should they engage separately with the Developer. Their attendance at the meeting is to enable them to be informed in the proposals and make suggestions (where necessary) about matters that they would like the future planning application to address. Any suggestions must be referred to the Chief Officer Planning and Climate Change, so that these may be incorporated in Officers' negotiations with the developer. To ensure that the final decision-making process remains unfettered, under no circumstances should suggestions be made by Councillors direct to the developer.

11 Presentations by Applicants/Developers

11.1 Where a meeting has been arranged by the planning service in respect of proposals of major, strategic importance, there is nothing to prevent Councillors from attending. However, this attendance must be in accordance with paragraph 12 of this Protocol.

11.2 Where planning proposals do not involve major, strategic development, a meeting between a member or members of the Planning Regulatory Committee and the applicant or developer is unlikely to be facilitated by the planning service , and will almost certainly be unnecessary. In the rare circumstances where a meeting does take place between a Councillor and the applicant or developer, or where the developer makes a presentation specifically for members of the Planning Regulatory Committee, it is essential that an Officer is present and the meeting properly minuted. Any feedback from members of the Committee should be to Officers and not to the developer. The minutes of any such meeting or presentation should be reported to the Planning Regulatory Committee prior to any decision being made.

11.3 Where a public meeting is arranged by a developer to present a proposal to local residents or the local community, it is likely that an Officer will not be present. Members of the Planning Regulatory Committee may attend, but should do so only as observers, and should not express any formal or definitive views, whether asked to do so by the developer or by a member of the public.

12 Approach by a Constituent

12.1 If a constituent approaches a member of the Planning Regulatory Committee about an application, he/she can give advice on Planning Procedure Rules and policy so far as they are able but it is always advisable to direct the constituent to staff of the planning service in any event. When speaking to constituents,

members of the Planning Regulatory Committee must not give any impression of any commitment to the application itself.

13 Approach by a Non-Constituent

13.1 If a non-constituent approaches a member of the Planning Regulatory Committee, members of the Planning Regulatory Committee can advise the person on Planning Procedure Rules and policy as far as they are able or alternatively ask them to contact their own Ward Councillor or the Chief Officer Planning and Climate Change and his/her staff.

14 Disclosure of Information

14.1 It is important that members of the Planning Regulatory Committee are clear on what information is a matter of public record and what information is not. Details contained within the planning application are open to the public and the planning process and planning policies are all within the public domain. However, informal observations of planning service staff will not be information available to the public. If a Councillor wishes to rely on the observations or comments of the Officer then the Councillor must ask the Officer if the information is of a public or confidential nature. If the Councillor intends to refer such information to a member of the public, i.e. not a Council member, they must make this clear to the Officer.

15 Hospitality Offered to Councillors

15.1 It is advisable in all circumstances to simply refuse any hospitality. To accept creates the risk that there has been undue influence on the planning process. In the rare event that the hospitality of an estimated value in excess of £50 is accepted it must be registered as a personal interest under Paragraph 8 of the Council's Code of Conduct. It must also be declared as a personal interest at any meeting within the next three years where an item of business relating to the source of the hospitality is considered.

16 Lobbying of Planning Officers

16.1 Councillors must recognise that they are part of the organisation which employs professional staff who will make their recommendations on planning applications. Public confidence in the planning system is dependent on Planning Officers being able to reach open and impartial recommendations on applications, based on lawful planning considerations only, without being improperly influenced in reaching their conclusions by political pressure. Whilst it is entirely proper for members of the Planning Regulatory Committee to enquire about progress on applications and to ask for clarification about the reasons for any recommendation, they must take particular care to ensure that they do not give the impression of applying pressure to Officers to make any changes to their recommendations. To do so would leave them open to accusations of applying inappropriate pressure in the form of lobbying.

17 Lobbying of the Planning Regulatory Committee by other Councillors

17.1 Councillors should not give an impression of any commitment or view on the application itself and Planning Regulatory Committee members must consider all matters before forming a view. If the lobbying Councillor is an applicant the Committee member must critically assess their relationship to the Applicant-

Councillor. The test is to ask yourself 'is the relationship such that a reasonable person would consider that remaining in the Planning Regulatory Committee meeting when the decision is made would give the impression of bias'. Simply being a member of the same political party does not necessarily equate to a personal or prejudicial interest but Councillors must ask themselves about their relationship, e.g. "Are they close associates outside the political arena?" "Do they socialise with each other?"

18 Social Contact

18.1 Members of the Planning Regulatory Committee should minimise their direct social contact with known developers and agents, especially when developments are contemplated or applications are being proposed or when controversial decisions are likely to be needed.

19. Site Visits – Informal or Formal

19.1 Again, if members of the Planning Regulatory Committee, whether or not on a site visit, enter any premises which: –

a. are the subject of/ affected by a planning application or

b. are known to be likely to become subject to or affected by a planning application

c. for any purpose in connection with such an application/proposed application, the member of Planning Regulatory Committee should be careful to use the inspection purely as a fact-finding exercise and not express any opinion on the merits of the application. Members of the Planning Regulatory Committee must not give any kind of indication of what their views of the application are at this stage as they would be at risk of predetermining the issue.

19.2 It is recommended that a member of the Planning Regulatory Committee should not enter a site which is subject to a proposal, other than as part of an official site visit, unless the member feels that it is essential to visit the site other than through attending the official site visit, and the member has first spoken to the Planning Officer about their intention to do so and why (which will be recorded on the file).

20 Purpose of Formal Visits

20.1 The purpose of a Planning Regulatory Committee site visit is to give members of the Planning Regulatory Committee the opportunity to see the prospective development site and to see it in context, in relation to the surrounding areas and the neighbouring uses. The Planning Officer will normally identify the site and make a short factual presentation explaining the proposed development and perhaps highlighting issues which initially prompted the site visit. The Planning Officer will answer, where possible, questions raised by Councillors.

20.2 Site visits are not intended to pre-empt the debate. Questions should therefore relate to matters of factual information about the site, the development and the surrounding area rather than a detailed debate regarding the principle or merits of the proposal. Any detailed debate regarding the above should await the formal Committee meeting when all members of the Planning Regulatory Committee and members of the public who attend can hear the arguments in a proper setting.

21 Public Attendance at Formal Site Visits

21.1 Members of the Planning Regulatory Committee will often be met by numbers of local residents at a site visit as they are often high profile cases which are under consideration. It is important that the Planning Officer or the Democratic Support Officer explains clearly the purpose of the site visit to residents before the site visit commences. Members of the public can listen to the Officers' presentation but should not join in any subsequent discussion. Public views or objections will be fully presented or reported at the Committee meeting and should properly form part of the overall debate and discussion at that time.

21.2 Members of the Planning Regulatory Committee should avoid getting into individual dialogue with local residents, although it is appreciated this can be difficult to avoid. The Chair can invite a spokesperson for the residents to answer any specific questions Councillors may have, but this should not become a general debate about the proposal. If there is a request to visit the site from a particular position or location this can be undertaken at the Chair's discretion. If it is agreed, all members of the Planning Regulatory Committee should accompany the Chair if possible.

21.3 The applicant or his representative will also be invited to attend the site visit. They are present simply to answer any questions the Committee members may have but should not address the Councillors on the general merits of the case. Again, the Planning Officer or Chair should explain this situation to the applicant or representative if necessary.

21.4 None of the above text on site visits is intended to stifle debate or prevent local residents from having their say. The proper place for such a debate is however at the Committee meeting when neighbour/local views will be properly reported and a proper discussion in a public forum can take place.

22 Ward Councillors Speaking at Planning Regulatory Committee who are not members of the Planning Regulatory Committee – Contact by the Applicant, Developer or Objector

22.1 When a Ward Councillor speaks at a Committee it is important that they make it clear whose views they are expressing. Are they speaking for themselves only? Are they speaking on behalf of their Ward? Are they speaking on behalf of a group of residents? An important difference between Planning Regulatory Committee members and Ward Councillors who are not members of the Planning Regulatory Committee is that Ward Councillors are permitted to express a view prior to entering the meeting room. Also, a Ward Councillor can inform other Councillors of their own view. If they are asked to meet with a party who has an interest in an application it should be made clear to that party that the Ward Councillor cannot lobby members of the Planning Regulatory Committee – they can inform the members of the Planning Regulatory Committee of their concerns etc, but they cannot lobby.

22.3 If the applicant/objector/third party asks for information Councillors should advise them to contact the planning service staff. The Ward Councillor can comment on how they would like the decision to be determined but must not give any impression of interfering with the normal democratic process. Comments like 'I will have a quiet word with the Chair' 'the Group will all vote together' or 'it will be

sorted' are unacceptable. They infer predetermination and interference, which at the very least is against an open and transparent planning system.

22.3 Instead the member of Planning Regulatory Committee should make it quite clear that they are able to express an opinion to the Committee but the final decision will be made by the Councillors when they have considered all matters including the Local Development Plan.

22.4 When a non-Planning Regulatory Committee member addresses the Committee, it is advisable that they disclose to the Committee any contact they have had with the applicant and/or agent and/or interested party. For example if a Ward Councillor meets with a developer and is in favour of an application they should state 'I am the Ward Councillor and I am here to represent my own views on this matter. I have spoken to the developer and I have looked at the plans in detail. I am for the application and consider the benefits are …'. Or 'I am the local Ward Councillor and I am here to represent the views of what I consider is the majority of the residents of my Ward. I have had numerous telephone calls and letters complaining about this. I have met with local resident groups and I am unhappy with the proposal before Councillors because …'

22.5 A member of the Planning Regulatory Committee may take the opportunity to exercise separate rights as a Ward Councillor where the Councillor has fettered his/her discretion to participate in the decision-making. However, the Councillor should make it clear before commencement of the item that they are speaking in this capacity, and should remove themselves from the Committee seating area for the duration of that item.

23 The Public Participation Process

23.1 With the introduction of the public participation process members of the public now have the opportunity to address the Planning Regulatory Committee. Each individual has 3 minutes to speak. Ideally the person would refer only to planning issues. However, realistically speaking, this is unlikely to occur and in practice they may refer to non-planning and development matters.

23.2 Planning Regulatory Committee members need to sift through such presentations and concentrate on the planning and development considerations, distinguishing between issues that are and are not relevant to the planning decision. Issues that are not planning matters need to be dismissed or given very little weight, while planning and development issues should be taken into account and given great weight. Personal circumstances and financial details are rarely, if ever, determining issues. Councillors have to give proper weight to the Development Plan and other material considerations.

23.4 As indicated above, a Councillor with a personal and prejudicial interest may take part in the public participation process, but must withdraw from the meeting immediately after they have addressed the Committee.

24 The Decision Itself

24.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 a planning application made under the Planning Acts shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.

24.2 Material considerations are anything that relates to the use and the development of land. "Material considerations must be genuine planning considerations, i.e. they must be related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest." PPG1 para. 50. 'In the public interest' does not mean determining planning applications on the view of the local residents. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated" para. 60 of PPG1.

24.3 If there is public opinion against an application then Councillors must ask themselves "are the objections based on planning grounds?" and if they are "is there evidence to support them?" If the answer to one or both of these questions is 'no', then Councillors should not permit the objections to determine the outcome.

24.4 A Councillor who is proposing, seconding or supporting a decision contrary to Officer recommendations or the Development Plan should clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. It may be necessary to justify the resulting decision by giving evidence in the event of any challenge.

25 Code of Conduct

25.1 This guide is ancillary to the Council's Codes of Conduct and is designed to help Councillors understand their role in the planning process. Its production is recommended by the LGA ('Probity in Planning').

26 Enforcement of the Protocol

26.1 Councillors need to be aware that this Protocol is for guidance. The breach of its terms will not necessarily result in the decision being invalidated, but may well lead to a decision being challenged. A breach of the Council's Code of Conduct may lead to a complaint to the Council's Standards Committee and will be dealt with in accordance with the statutory procedure under the Localism Act 2011 and Regulations thereunder. A breach of this Protocol is not in itself a breach of the Council's Code of Conduct Code but any complaint of a breach of the Protocol would be investigated by the Monitoring Officer and subsequently reported to the Standards Committee.

26.2 If Councillors have any concerns about the above they should contact the Chief Officer Planning and Climate Change.

PART 4 SECTION 7

Protocol on Licensing Procedure

1 Introduction

1.1 The purpose of this Protocol is to provide Councillors with guidance regarding their role in determining licensing applications and other related issues in the Licensing Committee. It also provides guidance to Ward Councillors, who are not members of the Licensing Committee.

1.2 The Protocol is designed to offer guidance to help Councillors understand their role and the responsibilities associated with that role, and to ensure that in the licensing process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

1.3 In summary, the most important issues for Councillors to consider are as follows:

a. The Code of Conduct and, in particular, whether a Councillor has an interest as defined in the Code, and if so whether that interest precludes the Councillor from participating in a particular item of business.

b. Aside from the Code of Conduct, whether there is any other reason why a Councillor should not participate in a particular decision.

c. The need to exercise care and caution in any contact with applicants and objectors.

d. The dangers of lobbying or being lobbied.

1.4 The Protocol is a public document, forming part of the Council's Constitution, and is available on the Council's website. When contacted on licensing issues, Councillors may wish to consider providing a copy of the Protocol to the person who has contacted them, if that would assist in explaining their role in the licensing process.

2 Natural Justice

2.1 These principles apply throughout public administration. They are fundamental principles of administrative law and should be adhered to when determining any licensing application, to ensure that there is no procedural impropriety.

2.2 The two principles of Natural Justice are :-

(a) The rule against bias.

(b) The duty to act fairly/duty to hear both sides or the other side.

3 The Rule Against Bias

3.1 Bias is an attitude of mind which prevents the decision-maker from making an objective determination of the issue to be decided. Procedural impropriety does not require actual bias; an appearance of bias is sufficient. The test is whether a fair minded and informed observer, having considered the facts, would conclude

that there was a real possibility of bias. Bias may arise by virtue of a Councillor being closely connected with a person who has a vested interest in a licensing application or matter.

3.2 In addition to the common law rule against bias, Councillors must be mindful of the provisions of the Council's Code of Conduct with regard to interests, referred to below.

3.3 If Councillors are in any doubt about the application of the Code of Conduct, they should seek advice early, from the Monitoring Officer, Deputy Monitoring Officer(s) or one of their staff. Failure to comply with the Code of Conduct may have implications for the individual Councillor, as there may be a complaint to the Standards Committee. There may also be implications for the decision-making process, with criticism of the relevant Committee and possible challenge to the decision on the basis that a Councillor with an interest remained within the meeting room and tainted the integrity of the decision.

4. The duty to act fairly/hear both sides or the other side - Predetermination and Predisposition

4.1 "Predetermination" is where a Councillor is closed to the merits of any arguments relating to a particular application, and makes a decision without taking them into account.

4.2 "Predisposition" is where a Councillor holds a view in favour of or against an application, but has an open mind to the merits of the argument before making a final decision.

4.3 Predisposition is acceptable; predetermination is not.

4.4 The decision-making body must consider all relevant information before coming to its decision. The Councillor's mind should not be closed until the final decision is made. A Councillor's mind will be closed if they have already come to a decision on an application prior to entering the meeting room. This is predetermination.

4.5 A decision will be open to challenge if a Councillor appears to have already decided how they will vote at the meeting so that nothing will change their mind. This impression can be created in a number of different ways such as quotes given in the press, and what Councillors have said at meetings or written in correspondence. However, it should be noted that Section 25 of the Localism Act 2011 provides that in the event that a decision is challenged, the court will not find that a Councillor had a closed mind when making the decision just because of any previous conduct which might have indicated what view the Councillor took, or would or might take, in relation to the matter. Simply listening to or receiving viewpoints from interested parties, seeking information through appropriate channels, or making comments, will not necessarily constitute predetermination, provided that the Councillor makes it clear that they are keeping an open mind.

4.6 It is not a problem for Councillors to be "predisposed", holding a view but having an open mind and being open to persuasion against that view. This includes having formed a preliminary view about how they will vote before they attend the meeting, and/or expressing that view publicly, provided it is clear that their mind is not closed to countervailing arguments.

5 Declarations of Interest and Leaving the Meeting Room

5.1 Disclosable pecuniary interests are defined in Regulations made under the Localism Act 2011, and the statutory provisions regarding such interests are reflected in Section 1 of Part B of the Councillors' Code of Conduct in **Part 4 Section 2** of the Constitution. If a Councillor has a disclosable pecuniary interest in any item of business before the Committee, the law requires the Councillor not to participate. The Council Procedure Rules require the Councillor to leave the meeting. This applies whether or not the Councillor is a member of the Committee, a Ward Councillor or an applicant or objector. If a Councillor with a DPI wishes to attend a meeting, the Councillor must obtain a dispensation.

5.2 Section 2 of Part B of the Council's Code of Conduct defines "other" interests which Councillors are required to register. These include details of any body to which the Councillor is appointed by the Council, and details of any body exercising functions of a public nature or directed to charitable purposes or whose principal purpose includes the influencing of public opinion or policy, of which the Councillor is a member or holds a position of general control or management. Where an item for consideration by the Committee relates to such a registered interest, the interest must be declared at the meeting.

5.3 In addition, where a decision might reasonably be regarded as affecting the well-being or financial position of a Councillor, or that of a relative or close associate of theirs, the Councillor must declare an "other" interest at the meeting. The phrase "close associate" is not defined in the Code, but covers both social and business associations. Simply knowing the applicant does not necessarily equate to an interest.

5.4 Where a Councillor has an "other" interest as set out in Section 2 of Part B of the Code of Conduct, in a licensing application being considered by a Committee, the Councillor must give careful consideration as to whether that interest is one which precludes them from participating in the debate and decision-making. This will be the case if the interest is one which a member of the public with knowledge of the facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest In other words, the interest must be perceived as likely to harm or impair the Councillor's ability to judge the public interest. However, a Councillor will only be precluded from participating if the item of business affects the financial position of the Councillor or the person or body through whom the interest arises, or relates to a licensing application by or on behalf of such a person.

5.5 Under the Council Procedure Rules, a Councillor who is precluded from participating in a decision must leave the chamber – the Councillor is not permitted to return to the public gallery for the debate and should not be seen by other Councillors when they are making the decision. If a Councillor with such an interest was present or could be seen to watch the proceedings, this could be sufficient to taint the process.

5.6 When declaring interests at meetings, Councillors should make it clear what level of interest they are declaring, and whether the interest prevents them from taking part in the decision-making process.

5.7 Councillors who have licensing interests or other interests that would prevent them from voting on a regular basis should avoid serving on a Licensing Committee.

6 Party Politics

6.1 A Councillor must not blindly follow the recommendations of their political party. A decision on a particular licensing application should not be dictated by party politics. Party whips should never be used. The Licensing Committee sits in a quasi-judicial manner and each decision is made on its own merits, within the legislation and any licensing policy or guidelines adopted by the Committee. Each decision has to be made on the information put before the Committee.

7. Media Exposure

7.1 A Councillor of the Licensing Committee should never make any public declaration on an application. If a Councillor makes a statement that is one sided prior to the application being determined, then that Councillor is at risk from an allegation of bias, i.e. they have not kept their mind open until all matters are before them. In these circumstances it may be inappropriate for the Councillor to take part in the decision-making process to ensure the decision is not tainted.

8 Lobbying

8.1 Those who may be promoting or be affected by a licensing decision may often seek to influence it. Whilst lobbying of Councillors is legitimate, and certain Councillors may make representations on behalf of applicants or other interested persons, there must be neither actual bias nor an appearance of bias in decision-making.

8.2 If a member of the Licensing Committee is lobbied, that Councillor can:

a. listen to what is being said

b. give procedural advice (e.g. where and when any meeting is to be held, advise which Licensing Officer to approach, or how to make representations)

c. refer the lobbyist to a Ward Councillor who does not sit on the Licensing Committee or to a Licensing Officer

d. report instances of significant, substantial or persistent lobbying to the Monitoring Officer

9 The Role of Councillors and Officers

9.1 All Councillors and Officers must ensure that contact between them in connection with licensing matters accords with the requirement of mutual respect and should not undermine the good working relationships which are critical to the success of the City Council and good local government.

9.2 Officers are available to discuss the issues relating to licensing applications with Councillors and to inform them of all the facts and circumstances relating to the application.

10 Ward Councillors/Committee Members

10.1 It should be noted that a member of the Licensing Committee who is the Councillor for a Ward which would be directly affected by a licensing application, or who is the

Ward Councillor for an individual who has an application or other matter for consideration by one of the Committees, is most at risk of allegations of bias, and is most likely to be put under pressure to represent those interests in the decision-making process. When a Councillor participates in making a licensing decision, their overriding duty is to the community as a whole, and a Councillor should not favour or appear to favour any person, company, group or locality.

10.2 It is for this reason that the Council's Statement of Policy under the Licensing Act 2003 provides that any sub-committee which deals with individual applications will not include any Councillor who represents the Ward in which the premises, which are the subject of the application, are situated.

10.3 For the same reason, it is strongly recommended that where the Licensing Committee or a sub-committee of the Licensing Committee is considering an application or matter relating to an individual, a Councillor for the Ward in which that individual resides and who has had contact with that individual on the matter should not sit as a member of the Committee for that item.

10.4 If a member of the Licensing Committee wishes to represent an applicant or other interested party, the Councillor may do so, but should do so as a representative, and should not sit as a member of the Committee for that item.

11 Speaking at Licensing Committee by Councillors who are not Members of the Licensing Committee

11.1 A Councillor who is not a member of a Licensing Committee may speak on an application or matter if the Councillor has made relevant representations in their own right, or may speak as the representative of or witness for any party to the proceedings.

11.2 At Licensing Committee, agenda items which relate to individual licence holders or applicants are generally held in private because the matters include exempt or confidential information. A Councillor who is not sitting as a member of the Licensing Committee may act as a representative or witness in any such item before the Committee. However, no other Councillor is permitted to attend for such items when the press and public are excluded.

11.3 Public speaking is permitted at meetings of the Licensing Committee on public reports. A Councillor who is not a member of the Committee and who wishes to speak on such an item may do so, but must register in accordance with the Committee's arrangements for public speaking.

11.4 Councillors who do not sit on the Licensing Committee need to be careful when discussing with Committee members issues relating to matters which may come before the Committee. It is unacceptable for the non-licensing Councillor to attempt to obtain a commitment as to how another Councillor might vote.

12 Membership of other Committees

12.1 There is acceptance that a Councillor may legitimately consider matters in several capacities, as different factors may apply to different decisions. For example, where premises require both a licence and planning permission, Councillors may sit on the Licensing Committee and the Planning Regulatory Committee. While the statutory regimes in such cases are different, the considerations to be taken into account may be similar, and Councillors should carefully consider whether

anything they have said in making the earlier decision would demonstrate a pre-determination of the second decision.

13 Contact with Applicants and other Interested Persons

13.1 Councillors should refer those who approach them for assistance on procedural or technical licensing matters to relevant Officers.

13.2 Councillors who wish to consider a licensing application should not attend formal or informal meetings with applicants or other interested persons.

14 Hospitality Offered to Councillors

14.1 It is advisable in all circumstances to simply refuse any hospitality. To accept creates the risk that there has been undue influence on the licensing process. In the rare event that the hospitality of an estimated value in excess of £50 is accepted it must be registered in the register of interests under Paragraph 8 of Section 2 of Part B of the Council's Code of Conduct. It must also be declared as an "other" interest at any meeting where an item of business relating to the source of the hospitality is considered.

15 Site Visits / Vehicle Inspections

15.1 Site visits by members of the Licensing Committee are generally unnecessary. However, in exceptional cases members of the Licensing Committee may not be able to appreciate points being put to them at a hearing without a site inspection. In matters relating to taxis, members of the Licensing Committee may need to undertake a vehicle inspection.

15.2 A site visit/vehicle inspection is a formal part of the licensing hearing process, and may be made either prior to the hearing or at the conclusion of the evidence. All members of the relevant Committee must attend and will be accompanied by an Officer.

15.3 Members of the Licensing Committee should keep together as a group and not engage individually in discussions with any applicant, objector or third party who may be present. It is acceptable for members of the Licensing Committee to ask questions to seek clarification on matters relevant to the site visit / vehicle inspection.

17 Training

17.1 In accordance with the Council's Constitution, Councillors should not participate in decision-making meetings dealing with licensing matters unless they have attended training provided for members of the relevant Committee.

18 Enforcement of the Protocol

18.1 This Protocol is ancillary to the Council's Code of Conduct and is designed to help Councillors understand their role in the licensing process. It is intended to minimise the prospect of legal or other challenge to decisions.

18.2 Councillors should note that this Protocol is for guidance. The breach of its terms will not necessarily result in the decision being invalidated, but may well lead to a decision being challenged. A breach of the Council's Code of Conduct may lead

to a complaint to the Council's Standards Committee and will be dealt with in accordance with the Standards Committee's arrangements under the Localism Act 2011 for dealing with such complaints. A breach of this Protocol is not in itself a breach of the Council's Code of Conduct Code but any complaint of a breach of the Protocol would be investigated by the Monitoring Officer and subsequently reported to the Standards Committee.

18.3 If Councillors have any concerns about the above they should contact the Chief Officer Governance.

PART 5

Councillors' Allowances Scheme

1.0 INTRODUCTION

1.1 The scheme outlined in this document was adopted following a review by the Independent Remuneration Panel (IRP) in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003. The Panel carried out the review in 2024 and the Panel's recommendations were accepted by Council on 11th December 2024.

1.2 The IRP will carry out a full review before the scheduled elections in 2027 for implementation no later than 1st May 2027.

2.0 BASIC ALLOWANCE

2.1 A basic allowance is to be paid to all Councillors, and is intended to recognise a time commitment expected of all Councillors, including such inevitable calls on their time as meetings with Officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of homes, private telephones and internet connections.

2.2 Each Councillor is entitled to £4,434.15 per annum, which will be paid monthly. The basic allowance will be increased year on year, in line with any Employee Pay Awards, unless the IRP recommends otherwise. Should the IRP recommend otherwise, it's recommendation will be put to the Council at the appropriate time.

2.3 In addition to the Basic Allowance, all Councillors will be offered a council laptop or similar device to enable them to access the Council network.

3.0 SPECIAL RESPONSIBILITY ALLOWANCE

3.1 A special responsibility allowance will be paid in addition to any entitlement to basic allowance for those Councillors who have significant responsibilities.

3.2 The Councillors receiving special responsibility allowance and the allowances payable are as follows:-

ROLE	
Leader of the Council and Chair of the Cabinet	£11,910.13
Deputy Leader of the Council	£7,031.83
Cabinet Members	£5,955.07
Overview and Scrutiny Committee Chair	£4,463.61
Budget and Performance Panel Chair	£3,938.81
Planning Regulatory Committee Chair	£4,614.37
Licensing Committee Chair	£4,614.37

Licensing Sub-Committee Chairs	£468.44
People and Organisational Development Committee Chair	£3, 521.35
Audit Committee Chair	£2,445.15
Appeals Committee Chair	£312.29
Standards Committee Chair	£1,265.06
Council Business Committee Chair	£1,507.61
Leader(s) of Opposition Group(s) (to be allocated to leaders of groups who are "in opposition", i.e who are not represented on Cabinet. The sum specified is to be divided between the leaders of any such groups which have four or more Councillors, in proportion to the size of their respective groups.)	£5,955.07
£1000 (maximum) allowance to be divided equally between serving 'Champions' to a cap of £263.94 each Champion per annum. At time of introduction of this allowance there were two Champions (Veterans' Champion and Champion for Disabilities)	£1,000 max

3.3 No Councillor is entitled to more than one payment from the Scales identified above.

3.4 It will be for individual Councillors who would qualify for more than one special responsibility allowance to inform the Senior Manager, Democratic Support and Elections as to which allowance they would wish to be allocated, otherwise it will be assumed that the highest allowance is to be paid.

4.0 CARERS' ALLOWANCE

The Council will make reasonable payments for the reimbursement of the care of dependent relatives living with the Councillor. Full details of the Carers' Allowance Scheme are attached at **Appendix A.**

5.0 REVOCATION

Basic and special responsibility allowances will be paid automatically unless notice is received in writing from the Councillor concerned revoking the entitlement. All such notices should be delivered to the Senior Manager, Democratic Support and Elections who will inform payroll accordingly.

6.0 CLAIMS

6.1 Claims for travel and subsistence allowances should be submitted monthly after the end of the month in which the entitlement to the allowance arose and in any event no later than 3 months from that date. Claims must be made on the official claim form available from Democratic Support.

6.2 Completed claim forms should be forwarded to Democratic Support. Claims will be checked on receipt in Democratic Support and, when verified, forwarded to Financial Services for payment. Those received in Democratic Support by the 20th of a month will be paid on the 15th of the following month. Claims received in Democratic Support after the 20th cannot be guaranteed to be paid the following month.

6.3 Payments are made net of income tax, through the PAYE system used for salaried Officers. Bank details are, therefore, required for each Councillor. If a Councillor changes their bank details, the revised details should be provided to Democratic Support.

7.0 TRAVEL AND SUBSISTENCE ALLOWANCES

7.1 In addition to the Councillors' Allowances Scheme, travel and subsistence allowances are payable.

7.2 A full schedule of rates payable for travel and subsistence and eligible duties is attached at Appendix B, and the approved duties for which travel and subsistence allowances are payable are set out in **Annexes 1-2**.

7.3 For the purposes of the payment of travel expenses, all travel will be deemed to have commenced from the Councillor's current address or, if this is not within the administrative area of the Council, from the address through which the Councillor qualified to stand for election. However, for the purposes of attending one meeting of the Full Council only and during the summer vacation only, travel from an address within the UK mainland will be reimbursed to a Councillor who is registered as a full time student and who does not at the time of the meeting have an address within the administrative area of the Council. No subsistence or overnight allowances will be paid.

8.0 LGA ALLOWANCES

8.1 For those members of the Council who have accepted political appointments on the LGA the Council's policy for the payment of Carers Allowances and Travel and Subsistence Allowances is set out at **Appendix C**.

9.0 PUBLICATION

9.1 The Council is required to publish details of the Councillors' Allowances Scheme and the total amounts received by each Councillor. The Senior Manager, Democratic Support and Elections is responsible for this matter.

10.0 MAYORAL AND DEPUTY MAYORAL EXPENSES

10.1 These expenses are paid to the Mayor and Deputy Mayor to reflect the additional expenditure that arises with these positions.

10.2 The level of Mayoral allowances will be:-

2024/25	
Mayor	£7,094.64
Deputy Mayor	£1,409.43

11.0 REVIEW OF SCHEME

11.1 The Independent Remuneration Panel will review the Scheme as and when requested, and in any event will undertake a full review before May 2027.

11.2 The Independent Remuneration Panel will monitor the Scheme.

11.3 Minor revisions are the responsibility of the Chief Executive in consultation with the Chair of the Independent Remuneration Panel.

11.4 Any queries or matters of clarification or determination as to Councillors' entitlement to any provisions of this Scheme shall be ultimately determined by the Chief Executive.

12.0 QUERIES

12.1 Any specific queries regarding the entitlement to the Scheme should, in the first instance, be addressed to the Senior Manager, Democratic Support and Elections. Queries regarding claims and payments should be addressed to the Exchequer Payments Team in Financial Services.

APPENDIX A
CARERS' ALLOWANCE SCHEME

1.0 Legality

a. The Scheme is established by the Council under the Local Authorities (Members Allowances) (England) Regulations 2003. The Carers' Allowance is payable in respect of the approved duties set out in **Annexes 1-3** of **Appendix B**. The scheme requires Councillors claiming the allowance to demonstrate and certify that carer expenses are actually and necessarily incurred in the conduct of their official duties.

2.0 Entitlement

b. The Scheme provides for payments to be made to Councillors in respect of care for "dependent relatives" living with the Councillor. For the purposes of the scheme, "dependent relatives" are defined as:

(i) children aged 15 or under;
(ii) elderly relatives requiring full-time care; and
(iii) relatives with disabilities who require full-time care.

c. The allowance is payable for care provided by carers registered by a Councillor with the Council (see paragraph 6. for details). In the case of (i) above, under no circumstances will the allowance be payable to another parent, the parent's spouse or partner. In the case of (ii) and (iii) above, under no circumstances will the allowance be payable in respect of care provided by a member of the Councillor's household.

d. For meetings or duties within the Council's boundaries as set out in Annexes 1, 2 and 3, the allowance will be paid for the duration of the meeting or otherwise approved duty plus an allowance for up to one hour's travelling time before and after the meeting. For duties outside the Council's boundaries, the allowance will be paid for the duration of the duty plus the actual travelling time to and from the venue. In all instances, total time claimed should be rounded to the nearest half-hour.

3.0 Rates of Allowance

e. The actual cost of care will be reimbursed up to the rate of the Real Living Wage as set by the Living Wage Foundation (£12.60 per hour as at 11 December 2024), irrespective of the number of dependants.

f. Where a dependent relative requires specialist professional care, the full cost of care will be allowed, with the prior written approval of the Senior Manager, Democratic Support and Elections see paragraph 6.0 (m).

4.0 Claims Procedures

g. Councillors wishing to apply for Carers' Allowance must submit an application form to the Senior Manager Democratic Support, declaring that:

(i) claims made will only be made in respect of a named dependent relative (or relatives) as defined in the scheme;
(ii) claims will only be made in respect of the entitlements set out in 2.0 above;
(iii) receipts will be provided in support of all claims; and
(iv) where a specialist professional carer is to be engaged, that this is a

necessary expense for which full reimbursement will be claimed.

h. Councillors are required to notify Democratic Support in the event of their entitlement to Carers' Allowance ending.

i. All claims will be processed by Financial Services through the Council's payroll system. In exceptional circumstances, and with the approval of the Chief Finance Officer, advance payments may be made in cash and subsequently adjusted through the payroll.

5.0 Taxation and National Insurance Contributions

j. Advice from the Council's taxation consultants is that payments made under such a scheme will be subject to Income Tax and NIC's unless an arrangement can be reached with the Inland Revenue and dispensation not to tax obtained on the basis that the payments are reimbursement of costs actually and necessarily incurred.

k. Because of the potential taxation and NIC implications, all payments must be processed through the Council's payroll system.

6.0 Administration

l. The scheme is an integral element of the Councillors' Allowances Scheme, and responsibility for supervising, maintaining and reviewing the scheme is assumed by the Senior Manager, Democratic Support and Elections in conjunction with the Chief Executive and the Independent Remuneration Panel.

m. Signed applications for registration of a carer are to be submitted by Councillors for approval by the Senior Manager, Democratic Support and Elections. Approved applications will be retained by Democratic Support and a copy forwarded to Financial Services.

n. Claims for payment of the allowance should be submitted by Councillors to Financial Services on the revised standard Councillors' Allowances Forms. All claims must be supported by a signed pro-forma receipt (in the case of care provided by a non-professional carer) or a receipted official invoice in the case of a specialist carer. Financial Services will check all claims for approval of entitlement, accuracy and reasonableness of duties and times claimed, and submission of supporting receipts and invoices.

o. Any queries regarding entitlement to the allowance, or individual claims, will be referred in the first instance to Democratic Support. Should a dispute arise as to the eligibility of a claim, this will be referred to the Chief Executive for decision. Should agreement not be reached the matter will then be referred to the Independent Remuneration Panel for arbitration.

7.0 Audit

Internal Audit will review the systems for payment of Councillors' Allowances on a cyclical basis and include sample testing of Councillors' Allowances transactions in annual probity programmes.

APPENDIX B

TRAVEL AND SUBSISTENCE ALLOWANCES PAYABLE
Travelling Allowances

(A) Public Transport (except taxis and aircraft)

1. The rate must not exceed the ordinary standard class fare or any available saver fare, but the Council may generally or specially determine to substitute first for standard class fare.
2. Supplementary allowance may be paid for expenses actually incurred on Pullman Car or a similar supplement, reservation of seats, deposit or portage of luggage and sleeping accommodation for overnight journeys, but in this last case the maximum overnight subsistence allowance is reduced by one-third.
3. All long distance rail journeys and sea-travel bookings must be made by Democratic Support on behalf of Councillors, to seek the most cost-effective deal within current parameters.
4. For journeys by public transport the cost of any private vehicle travel to and from the point of public transport may also be reimbursed at the rate set out in B below.
5. For journeys within the Council's administrative area valid receipts must be produced.
6. For journeys outside the Council's administrative area where the journey has been undertaken by car, the equivalent of a standard class rail fare as determined by Democratic Support on receipt of the claim shall be payable, subject to this being less than the payable rate set out in (B) below.

(B) Private Vehicle – for journeys within the City Council's administrative area:

1. By motor cycle 24p per mile and by motor car - 45p per mile. (The rates payable are those recommended by the HM Revenue & Customs and will be increased in line with their guidance.)
2. Cycling/other non-motorised transport allowance (in all cases) - 20p per mile.
3. For journeys outside the Council's administrative area, the lower of the above mileage allowance or the relevant standard class rail fare will be paid. However, the cost of any private vehicle travel to and from the point of public transport may also be reimbursed at the rates set out above.
4. Car parking charges may be reimbursed on production of a valid receipt. However, where a Councillor chooses to purchase a Councillor Car Parking Permit, the Council will not make any reimbursement towards the cost of parking within the District. Supplementary payments may be made for tolls and ferries actually incurred, on production of a valid receipt.

(C) Taxis and Hire Vehicles

1. Taxis: in cases of urgency or where there is no reasonably available public transport, the fare plus any reasonable gratuity paid. In other cases, the fare by appropriate public transport.

2. Hire Vehicles: the rate appropriate if the Councillor had owned the vehicles, unless the Council approves additional amounts up to the actual hiring cost.

(D) Aircraft

1. The rate applicable to travel by appropriate alternative transport plus any amount of attendance or financial loss or subsistence allowance saved by travelling by air.

2. But if the Council generally or specially resolves that the saving in time is so substantial, then: –

   (a) the ordinary or available cheap fare by regular service; or

   (b) where no such service is available or in the case of emergency, the fare actually paid.

3. The Chief Executive has discretion to authorise air travel.

4. All bookings must be made by Democratic Support on behalf of Councillors.

Subsistence Allowance

1. In case of an absence, other than an overnight absence from home, subsistence allowance is payable as follows:

Breakfast (when more than 4 hours away from normal place of residence) Councillors on approved duties who leave home before 7.00 a.m. to attend a location outside the Council's boundary, may claim breakfast expenses as follows -	
Breakfast, on production of a valid receipt	Up to £5.85
Breakfast, (in London), on production of a valid receipt	Up to £8.50
Breakfast, (in or out of London), where unable to produce a receipt	£3.20
Lunch (when more than 4 hours away from normal place of residence) Councillors on approved duties outside the Council's boundary from 11.45 a.m. to 1.30 p.m. may claim lunch expenses as follows –	
Lunch, on production of a valid receipt	Up to £5.85
Lunch, (in London), on production of a valid receipt	Up to £8.50
Lunch, (in or out of London), where unable to produce a receipt	£3.20
Evening Meal (when more than 4 hours away from normal place of residence) Councillors on approved duties who have not returned home by 7.30 p.m. may claim an evening meal as follows –	
Evening meal, on production of a valid receipt	Up to £11.45
Evening meal, (in London), on production of a valid receipt	Up to £17.00
Evening meal, (in or out of London), where unable to produce a receipt	£5.85
In the case of an overnight absence -	£90.60
For an overnight absence in Central London	£103.40

2. The value of free meals must be deducted from the allowance. Where main meals are taken on trains during which there is an entitlement to a day subsistence allowance, the reasonable cost of meals (including VAT) may be reimbursed in full. In such

circumstances, reimbursement for the cost of a meal would replace the entitlement to the day subsistence allowance for the appropriate meal period.

3. All accommodation bookings should be made by Democratic Support.
4. Where pre-booked the cost of hotel meals will be paid by the Council.

Eligible Duties

When a Councillor is appointed to an outside body by Council, Cabinet or Overview and Scrutiny, attendance at those meetings is an approved duty eligible for claiming travel and subsistence allowances. Other approved duties are shown at Annexes 1 and 2.

Annex 1

Approved Duties - Meetings of the Council
Council
Committees established by Council and any sub-committees established by those Committees, currently:
People and Organisational Development Committee
Audit Committee
Appraisal Panel
Appeals Committee
Licensing Committee
Licensing Sub-Committees
Planning Regulatory Committee
Scheduled Planning Briefings
Standards Committee
Standards Sub-Committees
Council Business Committee
Cabinet
Committees established by Cabinet
Advisory Groups established by Cabinet
Scheduled Cabinet Briefings
Overview and Scrutiny Committee
Task Groups established by Overview and Scrutiny Committee
Budget and Performance Panel
Joint Committees:
Joint Committee for Revenues and Benefits

Annex 2

Approved Duties - Other Duties
Attendance at Conferences/Seminars to which the Council or Cabinet has nominated a delegate
Media Receptions
Scheduled, Formal Meetings with Chief Executive/ Chief Officers
Mayoral and other public ceremonies/launches etc approved by the Council or Committee of the Council
Scheduled, Formal Meetings with Trade Unions
Scheduled, Formal Meetings of Cabinet / Overview and Scrutiny meetings / Working Groups

Notes:

The essential criteria for these, and any other such duties that may arise, is that they must be formally structured and diarised elements of Council business. The inclusion of other duties within this definition will be at the discretion of the Senior Manager, Democratic Support and Elections.

APPENDIX C LGA Scheme of Members' Allowances - City Council Policy

Appendix C LGA Scheme of Members Allowances - City Council Policy

The LGA's current scheme of members' allowances became effective from September 2010 (updated January 2015). The main features of the scheme are:

- Members of all Executives are paid an annual lump sum 'Responsibility Allowance' reflecting both the time which might be spent and the level of responsibility involved in carrying out these posts; no other attendance allowance is paid;
- The LGA pays travel and subsistence for meetings at which a Member has been appointed in a representative role on behalf of the LGA. The City Council pays the travel and subsistence costs for other meetings.
- The LGA pays carers allowance in respect of all approved duties and to members representing the LGA on outside bodies.
- Allowances paid by the association are index-linked to the principal local government pay settlement.

Type of Meeting	Travel & Subsistence	Carers Allowance	Attendance
All standing committees, panels, forums and task groups of the LGA.	Reasonable travel and subsistence costs will be paid by the authority according to the current scheme of Members' Allowances. Wherever possible, travel and accommodation arrangements should be made through Member Services.	Actual expenditure up to a maximum (currently £4.50 per hour per dependant) is paid by the LGA. This is payable for a maximum of the duration of the approved duty plus reasonable travelling time. Expenses incurred by Members are claimed in the first instance from the authority. The authority will submit a quarterly reclaim to the LGA.	Members of the LGA Executive, LGA Executives with Forums, and Other Executives receive a lump sum amount paid directly from the LGA to reflect the time which may be spent and the level of responsibility involved in carrying out these posts. No other payment regarding attendance is made.
Attendance at meetings with Ministers, Government Departments or consultations with other bodies where Members have been appointed by the LGA.		The LGA will pay travel and subsistence costs at the rates currently specified by the Secretary of State, subject to reimbursement of rail fares on the basis of the standard fare. The LGA requires receipts to be provided in support of travel and subsistence claims. Expenses incurred by Members should be claimed in the first instance from the authority. The authority will submit a quarterly reclaim to the LGA.	
Attendance at receptions, visits, conferences, seminars, or other functions where Members have been appointed by the LGA to attend in a representative role on behalf of the LGA.			
Attendance as the LGA's appointed representative on any public body, charity, voluntary body or other organisation formed for a public purpose (and not for the benefit of its members).			
One Party meetings or duties.	Any travel & subsistence to be funded by the political fund of the relevant party.	Any carers allowance to be funded by the political fund of the relevant party.	Any attendance allowance to be funded by the political fund of the relevant party.
Non-Approved Duties: Including General Assembly, Special Interest Groups, Conferences where the authority pays a fee for attendance.	Reasonable travel and subsistence costs will be paid by the authority according to the current scheme of Members' Allowances. Wherever possible, travel and accommodation arrangements should be made through Member Services.	Carers allowance will be paid by the authority according to the current scheme for Members' Allowances.	To be covered by the basic allowance currently paid to all Members.

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:

"Assistant Deputy Mayor" – appointed by Council, an Assistant Deputy Mayor may carry out civic duties if the Mayor and the Deputy Mayor are both unavailable.

"**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/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 Procedure Rules in **Part 3 Section 4**;

"**Committee**" – a Committee of the Council or possibly a joint committee with other councils;

"**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;

"Co-optee" – a person who is appointed onto a Committee or Sub-Committee or Task/Working Group who may speak at the invitation of the Chair and who may or may not have voting rights;

"**Council**" – the Lancaster City Council;

"**Councillor**" – an elected Councillor of Lancaster City Council 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;

"**Councillor Call for Action**" or **"CCfA**" – 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;

"Father/Mother 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;

"**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 Procedure 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;

"Invitee" – a person who is invited to a meeting of Cabinet, a Committee, Sub-Committee or Task/Working Group, who may speak at the invitation of the Chair;

"**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. Significant includes reputation of the Council, environment, local economy, community safety, human rights, equal opportunity or racial equality.

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 for a key decision is £250,000;

"Key Decision Notice" - a public notice published on the City Council's website for any decision of a value over £250,000 or 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.

"**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 Council 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 Chief Officer Governance or, if he/she is unable to act owing to conflict, absence or illness, the person nominated as his/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 Council or the holder of a paid office under the Council other than the Mayor, Chair or Vice Chair and any local Officer of dignity appointed by the Council under powers conferred by a Royal Charter;

"**Overview and Scrutiny Committees**" – are Committees 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;

"Overview and Scrutiny Meetings" - are any meetings of Overview and Scrutiny Committee, Budget and Performance Panel or any associated sub group or task group.

"**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 licencing and planning);

"**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.

Note that:

- Copies of Acts, Orders and Regulations are available at: legislation.gov.uk

- Any reference in this Constitution to legislation that is repealed and re-enacted is to the subsequent legislation that replaced it (in accordance with section 17 Interpretation Act 1978).