Westmorland & Furness Council

WESTMORLAND & FURNESS COUNCIL

CONSTITUTION

EDITION: JULY 2025

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Westmorland & Furness Council

Part 1
Summary and Explanation

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1 INTRODUCTION

1.1 Westmorland and Furness Council (usually referred to in this document as simply "the Council") is the new Unitary Council which has been created to cover the former areas of Barrow, Eden and South Lakeland. It has responsibility for most of the functions which were previously carried out by those districts' councils as well as the former county council for Cumbria.

1.2 The Council has 65 Councillors representing an area of 3,745 square kilometres stretching from the upper Tyne Valley to Morecambe Bay and home to a wide range of diverse communities. It is the third largest unitary council in the England and the most sparsely populated. The 2021 census indicated that 55% of its population of 225,000 live in rural areas and 45% in towns, the largest of which are Barrow-in-Furness, Kendal and Penrith. 15.6% of the population are aged 0 – 15 years (which is lower than the national average of 19.2%) whilst 26.3% are aged over 65 years (higher than the national average of 18.5%)

1.3 There are 114,000 jobs at workplaces in Westmorland and Furness. The public administration, education and health sector accounts for the greatest proportion (24%), followed by wholesale and retail (18%), manufacturing (15%) and accommodation & food services (14%). It is also home to Barrow Shipyard a major employer in the Barrow-in-Furness area.

1.4 Westmorland and Furness has national transport routes within its boundaries with the M6 and West Coast Main Line running north south and the A66 and A590 running east to west.

2 THE CONSTITUTION

2.1 The Council has agreed a Constitution (this document) 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 members of the public. Some of these processes are required by the law, while others are a matter for the Council to choose.

2.2 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.

2.3 Hyperlinks to other documents/sites or parts of this Constitution are included where this will be helpful. All hyperlinks are coloured blue and are underlined like this.

2.4 Defined terms are included in the Glossary in Part 6. They are shown in bold **like this**.

WHAT IS IN THE CONSTITUTION?

2.5 The Constitution has eight 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 set out 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 contains a Glossary which explains some of the terminology used in this document.

Part 7 sets out a list of associated documents that support this Constitution and can be accessed from it electronically.

Part 8 contains diagrams of the Council's management structure

2.6 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 the Constitution refers to these documents, they will be made available on the Council's website via a hyperlink.

3 COUNCILLORS

3.1 The Council has 65 Councillors (also known as "Members") who are elected by and are democratically accountable to the people in their wards. 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 Council's area 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 Chair and Deputy Chair; and the Leader and Deputy Leader whose term of office continues until the following Annual Council Meeting even if they are not re-elected). Elections will be held again in May 2027.

3.3 A full list of Councillors' names, contact information, terms of office, and 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 agreed to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee and the 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.

3.5 Councillors are entitled to receive allowances in accordance with the Councillor's Allowances Scheme set out in Part 5 of this Constitution.

3.6 All Councillors have the following roles and functions:

3.6.1 representing their communities and bringing their views into the Council's decision-making process, i.e. becoming the advocate of and for their communities;

3.6.2 contributing to the good governance of the area and encouraging community participation;

3.6.3 dealing with individual casework and acting as an advocate for constituents in resolving particular concerns or grievances;

3.6.4 balancing different interests identified within the Ward and representing the Ward and the Council as a whole;

3.6.5 maintaining the confidentiality of confidential and exempt information and assisting to ensure transparency of information that is publicly available (otherwise there may be a breach of the Councillors' Code of Conduct);

3.6.6 being involved in decision-making, including approving the Council's Budget and Policy Framework;

3.6.7 being available to represent the Council on other bodies; and

3.6.8 promoting and maintaining the highest standards of conduct and ethics.

3.7 All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here, Councillors decide the Council's overall policies and set the budget each year. The Council appoints the leader who in turn appoints councillors to be part of the Cabinet and may delegate powers and responsibilities to them. The Council also appoints Committees to carry out certain functions. The Council is responsible for holding the Cabinet to account for its actions and does this by questioning Councillors who are members of the Cabinet and by allowing the public to do the same. It also appoints Overview and Scrutiny Committees to review the decisions of the Cabinet and to help formulate policies.

4 HOW THE COUNCIL MAKES DECISIONS

4.1 All Councillors meet together a number of times each year as the Council. You can find details of the calendar of Council meetings on the Council's website. Annual Council is held once a year to appoint a Chair and Deputy Chair who preside over the Council meetings, to review this Constitution and to appoint Councillors to Committees.

4.2 Council is responsible for setting the Budget and Policy Framework. The Budget and Policy Framework sets out the Council's key policies and agreed budget for each year. All decisions must be taken in accordance with these agreed documents. Only Council can change the Budget and Policy Framework. Council also sets the Council's budget each year.

4.3 Council also appoints a number of committees to deal with regulatory and non- executive functions such as Planning and Licensing. See details of the Council's Committees in Part 2).

4.4 Meetings of the Council and other decision-making bodies are open to the public, except where personal or confidential matters are being discussed (see Access to Information Procedure Rules in Part 3).

4.5 The overall structure of the Council's decision making arrangements is shown at the end of this section.

4.6 The Council has adopted an executive form of governance. This means that the Council appoints a Leader of the Council. The Leader then appoints a minimum of 2 and no more than 9 other Councillors who, together with the Leader, form the Cabinet and are responsible for certain decisions such as policy matters (including recommending the Budget and Policy Framework to Council), housing, education, highways and transport, social care, land and property and economic regeneration.

4.7 Councillors that are not part of the Cabinet are largely responsible for the scrutiny of cabinet/ executive decisions and for making the types of decisions which are not permitted to be made by the Cabinet and may sit on the Council's Committees.

5 DECISION MAKING AND THE CABINET

5.1 The Council has adopted an executive form of governance. This means that member of the Council elect a Leader of the Council. The Leader then appoints the Cabinet (also known as the "executive") which is the part of the Council which is responsible for most day to day executive decisions and for formulating and implementing the Council's Budget and Policy Framework.

5.2 The Cabinet is made up of the Leader and up to 9 additional Members of the Council and can be formed from a single political party. The Council has decided to elect the Leader for every four years, beginning at its first Annual Meeting after the elections, or when a vacancy arises. A vacancy would arise if the Leader resigns or is disqualified from office as a

Councillor, or there is a vote of Council to remove the incumbent, which may happen before the end of the four year period.

5.3 Executive decisions may also be taken by the Leader, a committee set up by the Cabinet, individual Cabinet members or by officers authorised under the Officer Scheme of Delegation in Part 2.

5.4 Each of the Councillors on the Cabinet is responsible for a particular area of the Council's activities (called "Portfolios"). Cabinet Members are also sometimes called Portfolio Holders. Details of how the Cabinet operates and the current Cabinet Portfolios can be found on the Council's website.

5.5 The Cabinet has to make decisions that are in accordance with the Council's overall policies and budget. If it wants to make a decision that is outside (i.e., contrary to or not in accordance with) the Budget or Policy Framework this must be referred to Council to decide.

5.6 Cabinet will usually discuss matters in public. Where the 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.

5.7 When "key decisions" are to be discussed or made 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 procedures are set out in the Access to Information Procedure Rules in Part 3.

5.8 Some decisions, as a matter of law, are not decisions which the Cabinet may make. These decisions include Planning, Licensing and staffing matters. The Council has set up a number of committees to deal with these matters.

5.9 It is the duty of the Cabinet to work constructively and openly with non-executive and opposition Councillors and with officers to make sure that the overview and scrutiny process is working correctly.

6 OVERVIEW AND SCRUTINY

6.1 Overview and Scrutiny Committees support the work of the Cabinet and Council as a whole. They allows 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 the Committee. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery.

6.2 Overview and Scrutiny Committees also monitor the decisions of the Cabinet. Those Councillors who are not on the Cabinet can 'Call-in' a decision that has been made by the Leader or Cabinet but not yet implemented. This enables Overview and Scrutiny to consider whether the decision is appropriate and to recommend that the Cabinet reconsider the decision.

6.3 Overview and Scrutiny Committees may also be consulted by the Cabinet or the Council as a whole on forthcoming decisions and the development of policy.

6.4 The Council also has Joint Overview and Scrutiny Committees with neighbouring Cumberland Council.

7 COMMITTEES

7.1 The Council has other Committees which make decisions on regulatory, staffing and similar functions (e.g. planning and licensing). These are described in more detail in **Part 2**.

8 LOCALITY BOARDS

8.1 In addition, the Council has the following arrangements which will enable it to work closely with the public and other partnership bodies. In order to give members of the public, service users and residents a greater say in Council affairs, three Locality Boards have been created. These cover:

8.1.1 Eden

8.1.2 South Lakeland

8.1.3 Furness

8.2 The three Locality Boards are based on the geographical boundaries of the former District Councils and comprise the Councillors who have been elected in each particular area, as detailed on the Council's website. Meetings are normally held in public and the Locality Boards have some decision making powers and the ability to influence and engage with matters which affect their locality.

9 THE HEALTH AND WELLBEING BOARD

9.1 The Health and Wellbeing Board ("the Board") brings together key NHS, public health and social care leaders in the Council's area to work in partnership to assess the broad health and wellbeing needs of the local population and to lead the statutory joint needs assessment. The Board will develop a joint high-level health and wellbeing strategy and may also commission work on policy research, service improvement and local needs.

10 THE WESTMORLAND AND FURNESS COMMUNITY SAFETY PARTNERSHIP

10.1 The Council is required under the Crime and Disorder Act 1998 to have a Community Safety Partnership. The Council has agreed to discharge its duty in this regard by establishing the Westmorland and Furness Community Safety Partnership (CSP). The Westmorland and Furness CSP also fulfils the roles required of Drug Action Teams under legislation and government arrangements and oversees the requirements of the Prevent Duty.

10.2 The Westmorland and Furness CSP aims to promote and exercise a collective responsibility within the partnership and to evidence a strategic approach towards identified priorities with a clear focus on the reduction of crime, anti-social behaviour and the fear of crime within the geographical area of the Westmorland and Furness CSP.

11 JOINT ARRANGEMENTS

11.1 Some functions will be delivered in conjunction with Cumberland Council, either by this Council providing a service which also affects residents of that Council's area, or by Cumberland Council providing a service to residents in the area of Westmorland and Furness. Some of these arrangements are time limited and some are intended to be permanent. The Constitution describes the arrangements for joint decision making, management and scrutiny of these services.

12 THE COUNCIL'S STAFF

12.1 Councillors are supported by the Council's staff/employees (who are called "officers"). Officers provide advice to Councillors and Committees, take steps which are needed to implement decisions and manage the day to day delivery of the Council's services.

12.2 The most senior officer is the Chief Executive. Other senior managers lead different parts of the Council's services. Some officers have specific duties to ensure that the Council operates within the law and uses resources wisely. These are the Council's statutory officers:

12.2.1 Head of Paid Service responsible for the Council's officers (at Westmorland and Furness Council this is the Chief Executive);

12.2.2 Monitoring Officer, responsible for updating the Constitution, advising upon decision-making, reporting on illegality and maladministration in Council business, dealing with the conduct and behaviour of Councillors as well as having a range of delegated functions principally set out in Part 2 Section 6 of this Constitution (Officer Scheme of Delegation).

12.2.3 Chief Finance Officer / section 151 Officer responsible for the proper administration of the Council's financial affairs.

12.2.24 Director of Adults Services

12.2.25 Director of Children's Services

12.2.26 Director of Public Health

12.3 The Council's Management Structure is set out in Part 8.

12.4 All Council Officers must comply with the Officer Code of Conduct which is set out in Part 4. The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 3 of this Constitution. Officers are paid in accordance with the Council's Pay Policy. The Councillor / Officer Protocol governs the relationship between officers and Councillors and is set out in Part 4 of this Constitution.

13 THE ROLE OF THE CHAIR

13.1 The Chair of the Council is the "first citizen" of the Council's area.

13.2 The Chair serves a one-year term of office and is appointed at Annual Council. Their role is non-political and includes the following responsibilities (which in their absence shall be carried out by the Deputy Chair):

13.2.1 promoting public involvement in the Council's activities;

13.2.2 promoting the Council as a whole, acting as a focal point for the community, attending civic functions and fulfilling such civic duties as the Council and the Chair decide are appropriate;

13.2.3 presiding 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;

13.2.4 ensuring 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;

13.2.5 keeping order at Council meetings and ensuring that Councillor behaviour is of the highest standard and does not bring the Council into disrepute;

13.2.6 exercising a second or "casting" vote in the event of a tied vote;

13.2.7 subject to the advice and guidance of the Head of Paid Service, Chief Finance/Section 151 Officer or Monitoring Officer during Council meetings, interpreting the Constitution as and when necessary; and

13.2.8 when in debate or question time, reading the "sense of the meeting" and, when in the Chair's belief debate or questions already put shall have represented the views of the Council, the Chair can decide to move on to the next item of business under the Council Procedure Rules in Part 3.

14 RIGHTS OF MEMBERS OF THE PUBLIC

14.1 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.

14.2 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.

14.3 Members of the public have the right to:

14.3.1 vote at local elections if they are registered on the electoral roll;

14.3.2 stand for election as a Councillor if they live or work in the Council's area, in line with guidance from The Electoral Commission;

14.3.3 attend the Council's meetings except where confidential or exempt information is being discussed (see Access to Information Procedure Rules in Part 3);

14.3.4 contact local Councillors about any matters of concern;

14.3.5 contribute to reports and investigations by the Overview and Scrutiny Committees;

14.3.6 complain where there are problems with Council services

14.3.7 complain to 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.

14.3.8 complain to the Monitoring Officer if there is evidence that a Councillor has not followed the Council's Code of Conduct for Councillors.

14.3.9 inspect the Council's accounts and make views known to the Council's external Auditor;

14.3.10 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;

14.3.11 Find out from the notices of forthcoming key decisions what significant decisions will be taken by the Leader, Cabinet or officers and when; and

14.3.12 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

14.4 Members of the public may ask questions, present petitions and take part in meetings of the Council and its Committees in accordance with the Council's Procedure Rules set out in part 3, which may include:

14.4.1 Addressing meetings of Council to ask questions, where prior notice is given

14.4.2 Addressing meetings of Cabinet to ask questions, where prior notice is given

14.4.3 Speaking at Strategic or Area Planning Committees about a planning application, in accordance with the Committee's rules on public speaking

14.4.4 Making representations to the Licensing and Regulatory Committees as applicants or objectors in respect of individual applications; and speaking at Committee meetings and

Locality Boards on certain items in accordance with the Committee's rules on public speaking

14.4.5 Reporting on the proceedings at all open meetings of the Council by filming, photographing, audio-recording, using social media such as tweeting and blogging, or by any other means, and providing written commentaries during a meeting and oral commentaries outside of a meeting. Recordings should not show or identify other members of the public as this may be a breach of their rights under data protection laws.

15 DUTY TO MONITOR AND REVIEW THE CONSTITUTION

15.1 Council is responsible for adopting and agreeing changes to the Constitution.

15.2 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:

15.2.1 legislative references are updated;

15.2.2 it reflects the Council's structures and decision-making requirements;

15.2.3 consequential amendments are made as a result of Council decisions; and

15.2.4 Any other required changes are made as appropriate.

15.3 Substantive changes to the Constitution will only be approved by the Council.

15.4 In the event of a proposed change of governance arrangements from a Leader and Cabinet form of executive to alternative arrangements (or vice versa), the Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

16 SUSPENSION OF THE CONSTITUTION

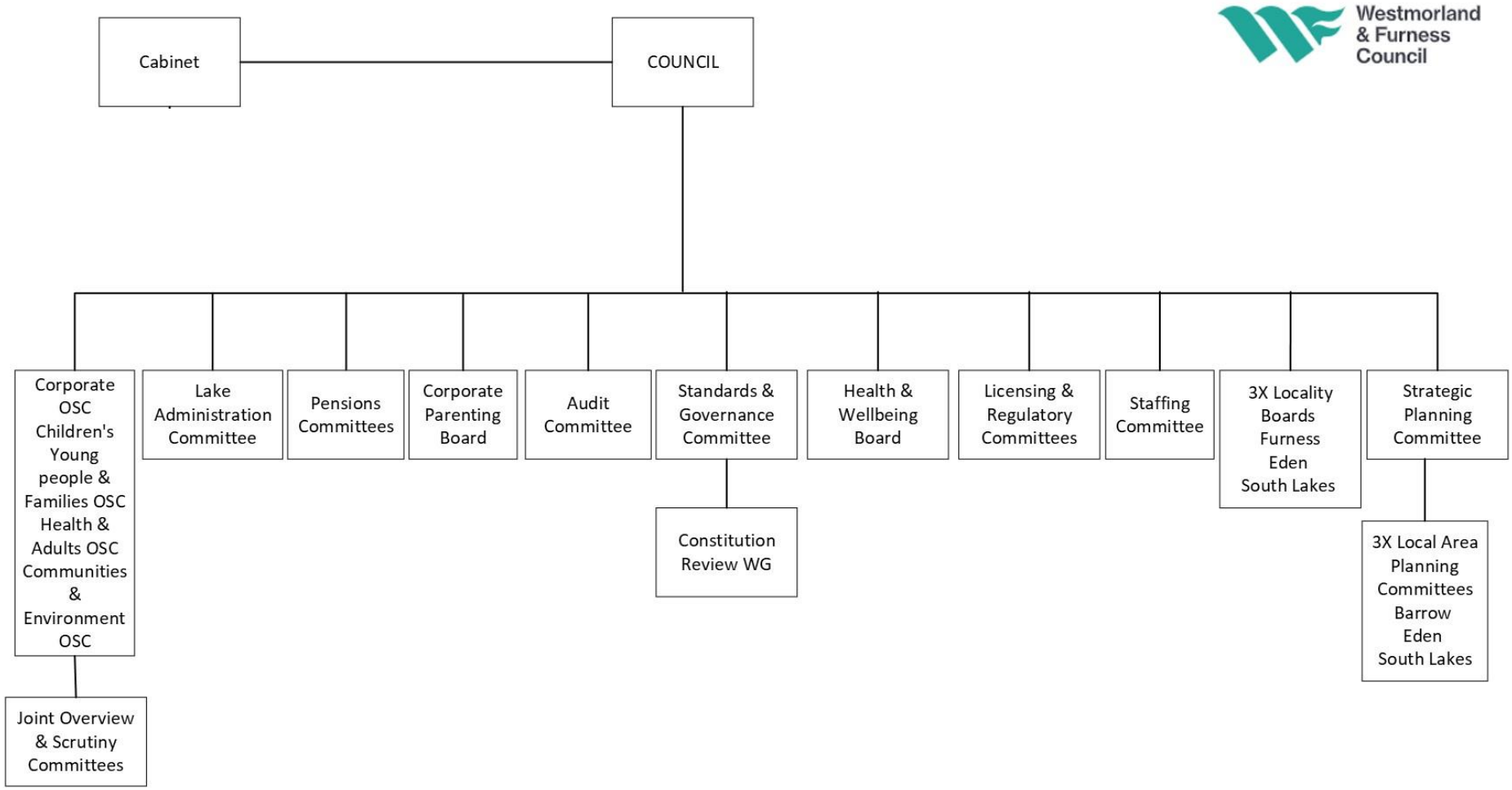
16.1 Any requirement of the Constitution may be waived or suspended by Council (or the Cabinet in relation to cabinet/ executive functions) to the extent permitted within the relevant Procedure Rules in **Part 3** of this Constitution and the law.

17 PUBLICATION

17.1 Copies of the Constitution are available to view on the Council's website (which is the definitive version)

17.2 The Monitoring Officer will make available a printed copy of this Constitution for Councillors if requested, but every Councillor has access to this Constitution online, which ensures it is always the most up to date version.

17.3 The Monitoring Officer will ensure this Constitution is available for inspection on the Council's website and at the Councils registered office. Printed copies can be purchased by the local press and the public on payment of a reasonable fee.


Cabinet
COUNCIL
Corporate OSC
Children's Young people & Families OSC
Health & Adults OSC
Communities & Environment OSC
Joint Overview & Scrutiny Committees
Lake Administration Committee
Pensions Committees
Corporate Parenting Board
Audit Committee
Standards & Governance Committee
Constitution Review WG
Health & Wellbeing Board
Licensing & Regulatory Committees
Staffing Committee
3X Locality Boards
Furness
Eden
South Lakes
Strategic Planning Committee
3X Local Area Planning Committees
Barrow
Eden
South Lakes

Westmorland & Furness Council

Part 2
Responsibility for Functions

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Part 2 – Section 1: Introduction to Decision-Making

1 GENERAL

1.1 The Council makes many decisions relating to matters within its area. This Part of the Council's Constitution sets out how these decisions are made so that members of the public are clear about what decisions are made and which part of the Council or individual has responsibility for particular types of decisions.

1.2 The Council's functions may be lawfully exercised by:

1.2.1 The Council;

1.2.2 The Cabinet (the collective term for the Leader, individual Cabinet Member, the Cabinet or a committee of the Cabinet);

1.2.3 Committees and sub-committees of the Council or the Cabinet, including Locality Boards;

1.2.4 Joint Committees; and

1.2.5 An Officer of the Council.

1.3 All of the Council's functions are either "executive" or "non-executive". Executive functions are the responsibility of the Cabinet or one of its committees, sub-committees, joint committees, or an officer. Non-executive functions are the responsibility of the Council or one of its committees, sub-committees, joint committees, or an officer. "Functions" includes all of the Council's powers and duties under legislation, that is, all of the activities the Council undertakes.

1.4 Under the Local Government Act 2000 ("the 2000 Act") functions are "executive functions", therefore the responsibility of the Cabinet, unless in law they are prevented from being exercised by the Cabinet. 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.

1.5 The Cabinet is the part of the Council which is responsible for most day-to-day decisions, including key decisions. The Cabinet is made up of the Leader and a number of Cabinet Members selected by the Leader and which make up the Cabinet. The Cabinet might also establish committees and sub-committees. All key decisions will be published in advance in the Council and Cabinet Forward Plan in so far as they can be anticipated.

1.6 The Cabinet will ordinarily carry out all of the Council's executive functions that are not the responsibility of any other part of the local authority, whether by law or under this Constitution, unless the Leader decides to discharge them personally or allocate them to an individual Cabinet Members or a committee of the Cabinet. Each year, the Leader will record which executive functions may be carried out by individuals or committees and this Constitution will be updated accordingly.

1.7 The Council will also agree and keep up to date a record of what part of the Council or individual has responsibility for non-executive decisions relating to particular areas or functions. This record is set out in this Part 2 of this Constitution.

1.8 The Council will also have local schemes of authorisation which are not part of this Constitution but are maintained by the Council's Designated Officers.

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

2 PRINCIPLES OF DECISION-MAKING

2.1 The following principles will apply to all decision makers. Decision makers will:

2.1.1 take into account all relevant considerations and ignore those which are irrelevant;

2.1.2 take decisions which are proportionate to the desired outcome;

2.1.3 undertake appropriate consultation where required and based on professional advice from officers;

2.1.4 undertake a realistic evaluation of alternatives and options, giving reasons for their decision;

2.1.5 consider relevant professional advice;

2.1.6 have regard to statutory duties, such as Best Value and to environmental considerations and impacts;

2.1.7 respect human rights and equality of opportunity; and

2.1.8 approach decision making on a transparent and open basis.

2.2 In the circumstance of a sub-committee which is established as a Panel to fulfil the function of a tribunal, the Panel or Sub-Committee may regulate, where necessary, its own procedures to deal with any matter arising in connection with its duties, provided that the procedures remain in accordance with the principles of decision making set out this Constitution. This includes that:

2.2.1 subject to any statutory rules or procedures detailed elsewhere, a Panel acting as a tribunal, when all evidence has been submitted and speakers (if any) have finished, will hold discussion in the presence of the speakers and, as appropriate and in compliance with the Access to information Procedure Rules, the public and press, however the decision making may thereafter be taken in private adjournment; and

2.2.2 it is expected that decisions will then normally be announced to those present and remaining post-adjournment, at least in summary form, before a decision is issued in writing.

3 RECORD OF DECISION-MAKING

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

3.2 A decision to be taken by the Council, a Committee or the Cabinet or to be taken as a Key Decision by an officer will normally only be made on consideration of a full report by the relevant officer(s), published as may be required by the Council's Access to Information Procedure Rules set out at Part 3 of this Constitution, and which shall contain as a minimum:

3.2.1 a recommended decision;

3.2.2 an explanation of the reasons for the recommendation being put forward;

3.2.3 details of any alternative options, if any, considered and rejected for recommendation;

3.2.4 details of any consultation undertaken or proposed including, in respect of consultation undertaken, the nature and extent of the consultation undertaken with stakeholders and the overview and scrutiny committees and the outcome of that consultation;

3.2.5 a consideration of the financial and legal issues pertaining to the matter, and such other matters as governance chief officers (the Head of Paid Service, Chief Finance Officer or Monitoring Officer) may require, which may include risk, staffing, equalities, crime and disorder and climate change implications; plus

3.2.6 a list compiled of any Background Papers to the report, which are those documents other than published works that, in the opinion of the proper officer, relate to the subject matter of the report or, as the case may be, the part of the report and:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) were relied on to a material extent in preparing the report.

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

3.3.1 who took the decision (the person or body);

3.3.2 the details of the decision including the date it was made;

3.3.3 the reasons for the decision;

3.3.4 a summary of any alternative options considered and rejected by the officer, Councillor or decision-making body when the decision was made;

3.3.5 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

3.3.6 in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer or Standards Committee.

4 TYPES OF DECISION AND THE DECISION-TAKERS

4.1 When the Council makes decisions, it will comply with the Council Procedure Rules.

4.2 When the Cabinet makes decisions, these will comply with the Cabinet Procedure Rules.

4.3 When the Overview and Scrutiny Committee makes decisions, these will comply with the Overview and Scrutiny Procedure Rules.

4.4 When committees and sub-committees make decisions, these will comply with those Council Procedure Rules that apply to them.

4.5 On occasions, the Council, a Councillor or an officer will act as a tribunal or in a quasi-judicial manner when they determine the civil rights, obligations or criminal responsibility of an individual. When this happens, they will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

4.6 Any area of responsibility that is not specifically listed under the matters reserved for Councillors in this Part 2 is deemed to be delegated to officers.

4.7 Part 2 Section 2 sets out the non-executive functions which are reserved to the Council.

4.8 Part 2 Section 3 sets out the "local choice" functions, which are those that the Council can allocate to either the Council or the Cabinet for decision, and sets out which body has been allocated them.

4.9 Part 2 Section 4 sets out the executive functions that are the responsibility of the Leader, individual Cabinet Members, the Cabinet and any committees or sub-committees it establishes.

4.10 Part 2 Section 5 sets out the non-executive functions which are reserved to the committees established by the Council.

4.11 Part 2 Section 6 sets out the principles of the Officer Scheme of Delegation for all functions and powers not otherwise reserved to Councillors and out the functions of the Statutory and Proper Officers of the Council.

Part 2 – Section 2: Responsibility for Council Functions (Functions not to be the responsibility of the Cabinet)

1 FUNCTIONS OF THE COUNCIL

1.1 Only the Council will exercise the following functions:

1.1.1 Electing the Chair and appointing the Deputy Chair;

1.1.2 Electing and removing the Leader of the Council;

1.1.3 Appointing to such other offices and/or positions as may be required under this Constitution or by law;

1.1.4 Agreeing and/or amending the terms of reference for committees, deciding on their composition, allocating the chair and vice-chair for each Council committee (and, where required, their political balance);

1.1.5 Agreeing the basis on which appointments to outside bodies should be made and appointing to outside bodies except where appointment to those bodies is an executive function or has been otherwise delegated;

1.1.6 Adopting the Constitution and making significant changes to the Constitution, including agreeing and/or amending the Officer Scheme of Delegation with respect to non-executive functions except where specifically delegated to the Monitoring Officer;

1.1.7 Approving and adopting the Budget and Policy Framework;

1.1.8 Approving the Council's Budget and levying Council Tax (NB. the setting of rents and service charges for Council properties is to be determined by the Cabinet);

1.1.9 Determining the borrowing limits for the authority for each financial year and the proportions of borrowing that are to be set at variable rates within the Treasury Management Strategy Statement;

1.1.10 Making or revising a Council Tax Reduction Scheme;

1.1.11 Approval of the Community Infrastructure Levy Charging Schedule;

1.1.12 Making decisions about any matter in the discharge of an executive 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 contained in the Budget and Policy Framework Procedure Rules in Part 3);

1.1.13 Considering any matter which has been referred or submitted to it by the Cabinet for information, views or debate (but recognising that an Executive matter remains the sole responsibility of the Cabinet and the Council cannot make a decision in relation to it);

1.1.14 Determining any matter which is properly referred to it for determination by a committee or sub-committee in relation to non-executive functions;

1.1.15 Adopting and/or amending a Councillors Allowances Scheme following a report from the Independent Remuneration Panel;

1.1.16 Changing the name of the area, and conferring the title of Honorary Alderman or Honorary Freeman;

1.1.17 Approving the Annual Pay Policy Statement;

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

1.1.19 Appointing the Head of Paid Service, Monitoring Officer and Chief Finance Officer (Section 151 Officer) and dismissing the Head of Paid Service, Monitoring Officer or Chief Finance Officer (Section 151 Officer);

1.1.20 Appointing the Electoral Registration Officer and Returning Officer;

1.1.21 Approving the Council's response to any issues or proposals in relation to local government boundaries including Electoral Wards, the conduct of elections and the discharge of Council functions;

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

1.1.23 Determining whether functions which are classified as "Local Choice" functions should be reserved to the Council or exercised by Cabinet;

1.1.24 Adopting the Council's Code of Conduct for Councillors, Code of Conduct for Officers and the Councillor Officer Protocol;

1.1.25 Adopting (or otherwise) Motions submitted in accordance with the Council Procedure Rules except those that relate solely to an executive function;

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

1.1.27 Approving Development Plan Documents (DPDs) excluding Neighbourhood Plans prior to submission to the Secretary of State;

1.1.28 Approving any application to the Secretary of State in respect of any Housing Land Transfer pursuant to the Housing Act 1985;

1.1.29 Opting into arrangements for an appointing person or appointing an Auditor Panel pursuant to the Local Audit and Accountability Act 2014 to select an external auditor, manage the relationship and provide advice and recommendations to the Audit Committee;

1.1.30 Discharging all licensing functions and such other matters which must be reserved to the Council as specified in the Licensing Act 2003 or any Regulations published in relation to that Act or any other legislation or any statute or regulations amending, consolidating or replacing them including approving, reviewing and revising any Statement of Licensing Policy;

1.1.31 Discharging all functions which must be reserved to Council as specified in the Gambling Act 2005, or any other ancillary regulations or legislative provisions amending, consolidating or replacing the same, including:

(a) approving and revising any Statement of Gambling Policy;

(b) resolving not to issue any casino premises licences in the next three years; and

1.1.32 Making an Order giving effect to recommendations in a Community Governance Review, including abolishing a Parish Council, recommending changes to parish boundaries to the Local Government Boundary Commission and related functions.

1.1.33 All other matters which, by law, are reserved to the Council.

1.2 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).

2 COUNCIL MEETINGS

2.1 There are three different types of Council meeting:

2.1.1 The Annual Meeting of the Council;

2.1.2 Ordinary meetings; and

2.1.3 Extraordinary meetings.

2.2 All Council meetings will be conducted in accordance with the Council Procedure Rules.

3 BUDGET

3.1 The Council sets the Council's Budget each year. The Budget has a number of elements as follows:

3.1.1 The allocation of financial resources to different services and projects both revenue and the capital programme;

3.1.2 The Housing Revenue Account (HRA) Budget and HRA Capital Programme

3.1.3 Proposed contingency funds;

3.1.4 The Council tax base;

3.1.5 Setting the Council Tax;

3.1.6 The Council's borrowing requirement;

3.2 The Budget Framework is set out in the following:

3.2.1 Medium Term Financial Strategy;

3.2.2 Treasury Management Framework (including relevant policies and strategies); and

3.2.3 Capital and Investment Strategies.

4 POLICY FRAMEWORK

4.1 The Policy Framework sets out those plans and strategies that must be adopted by a meeting of the full Council and, once agreed, set the parameters within which an executive decision may be made without either referral back to Council for consent or following urgency procedures. The process for formulation and approval of a plan or strategy within the Policy Framework, and the process to be followed where a decision maker is minded to determine a matter in terms contrary to the plan or, as the case may be, the strategy adopted or approved by the Authority, is set out in the Budget and Policy Framework Procedure Rules at Part 3 (Section 4) of this Constitution.

4.2 The Policy Framework is formed of the following:

4.2.1 Those plans and strategies required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) to be approved or adopted by the Council[1]:

(a) Crime and Disorder Reduction Strategy;

(b) Development plan documents, including

(i) Local Plan; and

(ii) Minerals and Waste Local Plan

and for the purposes of public consultation or for the purposes of submission to the Secretary of State or any Minister of the Crown;

(c) Licensing Authority Policy Statement;

(d) Gambling Authority Policy Statement;

(e) Local Transport Plan;

(f) Youth Justice Plan;

(g) Children and Young People's Plan;

(h) Community Safety Partnership Plan;

(i) Pay Policy Statement; and

(j) any plan or strategy for the control of the authority's borrowing, investments or capital expenditure.

4.2.2 Other plans or strategies which Council has determined that the decision should be taken by them as to whether that plan or strategy should be adopted or approved (including those subject to a recommendation in Government Guidance that should be adopted by the Council as part of the Policy Framework):

(a) The Council Plan; and

(b) such other plans and strategies to be submitted to full Council by the Cabinet as Council may from time to time determine.

[1] The 2000 Regulations still specify that the Council's Annual Library Plan needs to be part of the Policy Framework. The Council is not however currently required to produce an Annual Library Plan by statute in relation to section 1(2) of the Public Libraries and Museums Act 1964. The Annual Library Plan has been removed from the Policy Framework on 4 November 2024.

Part 2 – Section 3: Responsibility for Local Choice Functions

1 ALLOCATION OF LOCAL CHOICE FUNCTIONS

1.1 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:

Local Choice Functions		Status of Function	Decision Maker	Further Delegation
1	Any function under a Local Act not specified or referred to in regulation 2 or Schedule 1 of the Functions Regulations	Executive	Cabinet	As determined by the Leader
2	Any function under a Local Act in respect of a licensing, consent, permission or registration function including development control functions	Non-Executive	Regulatory Committee or Strategic or Local Area Planning Committees in respect of any development control function	Delegated to Chief Officers within their areas of responsibility, other than those within the terms of reference of committees
3	The determination of any appeal against any decision made by or on behalf of the Council	Non-Executive	School Admission Appeal Committee Staffing Committee (for disciplinary or employment matters)	Delegation to Chief Executive and Directors within their areas of responsibility, other than those within the terms of reference of committees
4	The appointment of review boards under regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998.	Non-Executive	Chief Finance/Section 151 Officer	N/A
5	The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools.	Non- Executive	Director of Children's Services	N/A
6	The making of arrangements pursuant to sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (admissions appeals).	Non-Executive	School Admission Appeals Panel	Director of Children's Services
7	The making of arrangements pursuant to section 95(2) of the 1998 Act	Non-Executive	Director of Children's Services	N/A

	(children to whom section 87 applies: appeals by governing bodies).			
8	The making of appointments of Councillors under the Police Reform and Social Responsibility Act 2011.	Non- Executive	Council	N/A
9	Any function relating to contaminated land Except where this is a function involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of a person or the enforcement of any of the above, in which case:	Executive Non-Executive	Cabinet Regulatory Committee	As determined by the Leader Delegation to Chief Executive and Directors within their areas of responsibility other than those within the terms of reference of committees
10	The discharge of any function relating to the control of pollution or the management of air quality Except where this is a function involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of any person or the enforcement of any of the above, in which case:	Executive Non-Executive	Cabinet Regulatory Committee	As determined by the Leader Delegation to Chief Executive and Directors within their areas of responsibility other than those within the terms of reference of committees
11	The service of an abatement notice in respect of a statutory nuisance.	Non- Executive	Regulatory Committee	Delegation to Chief Executive and Directors within their areas of responsibility other than those within the terms of reference of committees
12	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Executive	Cabinet	As determined by the Leader
13	The inspection of the authority's area to	Executive	Cabinet	As determined by the Leader

	detect any statutory nuisance and the investigation of any complaint as to the existence of a statutory nuisance Except where this involves the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of any person or the enforcement of any of the above, in which case	Non-Executive	Regulatory Committee	Delegation to Chief Executive and Directors within their areas of responsibility
14	The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Executive and Non-Executive	Strategic or Local Area Planning Committees and (where actions are preliminary to the exercise of powers to make compulsory purchase orders only) Cabinet	Delegation to Chief Executive and Directors within their areas of responsibility other than those within the terms of reference of committees
15	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Executive and Non-Executive	Delegation to Chief Executive and Directors within their areas of responsibility	Assistant Directors within their area of responsibility
16	The making of agreements for the execution of highways works.	Executive	Cabinet	As determined by the Leader
17	The appointment of any individual— (a) to any office other than an office in which he is employed by the authority; (b) to any body other than— (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body,	Executive and Non-Executive	Council except where the appointment relates to an executive function, in which case, Cabinet; or appointment by a Locality Board to a body within their area, including to local authority school governors	Delegation to Chief Executive and Directors within their areas of responsibility other than those within the terms of reference of committees Or as determined by the Leader

	and the revocation of any such appointment.			
18	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Executive and Non-Executive	Staffing Committee except where the agreement relates to an executive function, in which case, Cabinet	Delegation to Chief Executive and Directors within their areas of responsibility other than those within the terms of reference of committees Or as determined by the Leader
19	Functions in the capacity of a Harbour Authority	Executive	Cabinet	Director of Thriving Communities

Part 2 – Section 4: Responsibility for Executive Functions

1 THE CABINET

Role

1.1 The Cabinet will exercise all of the Council's functions which are not the responsibility of any other part of the Council, by law or under this Constitution, and subject (in the case of executive functions only) to the Leader determining to make the decision personally or that it should be undertaken by an individual Cabinet Member, by an officer, by a committee of cabinet or under joint arrangements.

1.2 Executive decision making (aside from those executive functions delegated to Officers and Committees of the Cabinet) shall be exercised by the Cabinet as a whole.

1.3 **Form**

1.4 The Cabinet will consist of the Leader together with at least two but not more than nine Councillors appointed to the Cabinet by the Leader.

1.5 No substitution arrangements will apply to the Cabinet, and neither the Chair nor Deputy Chair of the Council may be appointed to the Cabinet.

Leader

1.6 The Council has decided that the Leader will be a Councillor elected to the position of Leader by the Council until the following the four-yearly elections. The Leader will remain in position until the Annual Council meeting following the next four yearly elections, or until:

1.6.1 they resign from office;

1.6.2 they become ineligible to be a Member of the Council, either for a specific period or indefinitely;

1.6.3 they cease to be a Councillor;

1.6.4 they are removed from office by a resolution of the Council requiring a simple majority, in respect of which the motion has been fully set out in the agenda for the meeting.

(N.B. if the Leader is not elected or does not stand for re-election, they will remain in office during the period between the election and the Annual Council meeting when a new Leader will be elected.)

1.7 In the event of there being a vacancy in the office of Leader:

1.7.1 If this is in consequence of being removed by resolution of Council, a new Leader may be elected at the same meeting; or

1.7.2 Council shall elect a new Leader at its next ordinary meeting, or at an extraordinary meeting called for the purpose of electing a new Leader.

Other Cabinet Members

1.8 Other Cabinet Members will be Councillors appointed to the position by the Leader from time to time. They shall hold office until any of the events listed in 1.6a -1.6 c above apply to them or to the Leader, or until the Leader brings their term of office to an end.

Deputy Leader

1.9 The Leader shall appoint one member of the Cabinet to be Deputy Leader who shall exercise the functions of the Leader in their absence. If the Deputy Leader is unable to act or the office is vacant, then the Cabinet must act in the Leader's place or must arrange for a Member of the Cabinet to act in their place, until a decision is made by the Council to appoint a new Leader.

1.10 The Deputy Leader shall hold office until such time as the term of office of the Leader who appointed them comes to an end, or until:

1.10.1 They resign from the office;

1.10.2 They cease to be a Cabinet Member

1.10.3 They are removed from office by the Leader.

2 PORTFOLIO RESPONSIBILITIES FOR CABINET MEMBERS

2.1 Cabinet Members shall have the responsibilities as determined by the Leader from time to time.

2.2 Details of the current Cabinet Members and the portfolios are available on the Council's website.

3 GENERAL RESPONSIBILITIES OF THE CABINET

3.1 The Cabinet is responsible for:

3.1.1 ensuring the effective and efficient discharge of the functions delegated to them;

3.1.2 ensuring that any Council services within their remit are appropriate for and responsive to the needs and views of the Council's Members of the Public, and are delivered effectively and efficiently;

3.1.3 ensuring that good external relationships and effective local liaison are promoted in relation to Council services within their remit;

3.1.4 monitoring the functions of the Council within their remit and contributing to any Council aims, objectives and policies;

3.1.5 determining policies and objectives for any Council services, within their remit, reviewing the extent to which they are met, and agreeing any necessary action;

3.1.6 determining the Council's views on matters specific to their areas of responsibility and related external matters; and

3.1.7 ensuring the effective and efficient management of any services and resources within their remit and, where appropriate, the effective and efficient discharge of the responsibilities of any subordinate bodies or person.

4 GENERAL RESPONSIBILITIES OF ALL CABINET MEMBERS

4.1 The following are the general responsibilities which apply to all Cabinet Members.

4.2 There are occasions when matters affect more than one portfolio of responsibility. On such occasions, the Cabinet Member with the primary responsibility shall take the lead, but in consultation with all Cabinet Members with an interest.

4.3 Each Cabinet Member is the spokesperson or "Portfolio Holder" for the policy area or 'portfolio' they are responsible for. They also:

4.3.1 lead on developing Council policy and make recommendations to the Cabinet;

4.3.2 provide guidance to the Cabinet on delivering services within their portfolio area;

4.3.3 give guidance to the Cabinet on budget priorities;

4.3.4 monitor performance and make sure policy is delivered;

4.3.5 lead on improving Council services;

4.3.6 ensure that activities meet the Council's overall vision, core values and guiding principles;

4.3.7 represent the Council at a national and local level;

4.3.8 contribute to debate and decision-making;

4.3.9 work with all Councillors and officers to make sure that the overview and scrutiny process works correctly including appearing before relevant Overview and Scrutiny meetings and responding to Overview and Scrutiny Committee reports; and

4.3.10 ensure appropriate consultation and liaison with partners and the community on matters within the scope of their portfolio.

5 MATTERS RESERVED FOR CABINET

5.1 All the functions of the Council are executive functions except for those which are the responsibility of the Council or a body established by the Council.

5.2 Executive functions will be exercised by the Cabinet collectively except where the matter is dealt with under joint arrangements or delegated to a Cabinet Member.

6 INABILITY OF WHOLE TO ACT

6.1 If each and every one of the Cabinet are unable to act for any reason (including the Leader and Deputy) the Council may elect an interim Leader to discharge the relevant executive functions. The Chief Executive shall also be authorised to exercise executive functions in the event that members of the Cabinet are unable or unwilling to act, in order to protect the Council's interests or in the event or urgency or emergency.

7 PROCEEDINGS OF THE CABINET

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

8 RESPONSIBILITY FOR FUNCTIONS

8.1 The Leader will present a Scheme of Delegation for executive functions to be maintained and published in or alongside Part 2 of this Constitution by the Monitoring Officer, setting out which individual Cabinet Member, committees of the Executive, officer or joint arrangements are responsible for the exercise of particular executive functions.

8.2 The Leader will be invited before each Annual Meeting of the Council to consider at that stage whether they wish to make any amendments to the arrangements for the exercise of executive functions by Cabinet Members, committees of the Cabinet, officers or under joint arrangements. Any such arrangements will be reported to Council for information.

8.3 The Leader may also make amendments during the course of the Council year which shall also be reported to Council for information.

9 COMMITTEES OF THE CABINET

9.1 The Leader or the Cabinet may delegate any of its functions to a committee of the Cabinet. Committees of the Cabinet shall report to the Cabinet. If the Committee is to have decision-making powers then the Committee may only include Cabinet Members. The Leader or the Cabinet may also establish advisory committees, the membership of which need not be limited to Cabinet Members. The Leader or the Cabinet may change them, abolish them, or create further ones, at its own discretion.

9.2 Committees established by the Leader or the Cabinet shall be empowered to perform these functions with immediate effect unless the Leader or the Cabinet impose any express restriction when they are established. Unless stated otherwise, all decision-making committees will continue in operation until expressly abolished by the Leader or the Cabinet and all advisory or consultative liaison committees will continue in operation only until the first meeting of the Cabinet in the next civic year following their establishment when they must be expressly renewed or the cease to exist.

9.3 All functions that have been delegated to a committee established by the Leader or the Cabinet can still be taken by the Cabinet as the parent body (where the Cabinet has delegated that function) or by the Leader either personally or another Cabinet Member or an alternative committee of the Cabinet.

9.4 The establishment, abolition or cessation of committees and the amendment of their terms of reference will be reported to Council in due course for noting in the Council's Constitution.

Part 2 – Section 5: Functions of Committees

The Council has the following Committee and arrangements:

1. Audit Committee

2. Standards and Governance Committee

3. Strategic Planning Committee

4. Local Area Planning Committees

5. Licensing and Regulatory Committees

6. Overview and Scrutiny Committees

7. Health and Wellbeing Board

8. Staffing Committee

9. Independent Persons Panel

10. Lake Administration Committee

11. Joint Arrangements

12. Joint Committee for Shared/ Hosted Services and Joint Overview and Scrutiny Committees

13. Corporate Parenting Board

14. Locality Boards

15. Pension Committee & Pensions Investment Sub-Group

16. Cumbria Local Pension Board

1 AUDIT COMMITTEE

1.1 The purpose of an Audit Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.

1.2 The success of the Audit Committee depends upon its ability to remain apolitical. It must adopt a non-political approach to its meetings and discussions at all times. Remaining apolitical also places a duty on Councillors not to make inappropriate use of information provided to the Committee for other purposes.

1.3 The Committee has the right to access to all the information necessary to undertake the work of the Committee and may receive reports and refer matters to Internal and External Auditors.

Composition

1.4 The Audit Committee will comprise **8** Councillors, or as may be determined each year by the Annual Meeting of Council, and is subject to the overall political balance requirements.

1.5 Members of the Committee will not be Cabinet Members

1.6 The Chair will be a suitably qualified Independent Person to be appointed by Council for a fixed term and upon recommendation of the Committee following an open recruitment process. The Chair may be in receipt of an allowance. Where a suitable Independent Person is not appointable or recommended by the Committee the Council will appoint a Chair.

1.7 The Vice-Chair will undertake the responsibilities of the Chair in the absence of, or until such time as the appointment of, an Independent Person as Chair or a Chair has been nominated by Council.

Quorum

1.8 The Audit Committee quorum will be a third of the Committee membership.

Substitutes

1.9 Each political group may appoint reserve Councillors.

Competency

1.10 All members of the Audit Committee and Councillors attending as reserves must:

1.10.1 have undertaken appropriate training in the relevant law and procedures which relate to the Committee's work; and

1.10.2 undertake further appropriate training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the Monitoring Officer and/or Chief Finance Officer.

Terms of Reference

1.11 **Governance, Risk and Controls**

1.11.1 To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances, including the Code of Corporate Governance.

1.11.2 To review and approve the Annual Governance Statement and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.

1.11.3 To consider the Council's arrangements to secure value for money and to review and scrutinise assurances and assessments on the effectiveness of these arrangements.

1.11.4 To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.

1.11.5 To monitor the effective development and operation of risk management in the Council.

1.11.6 To monitor progress in addressing risk related issues reported to the Committee.

1.11.7 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions, including calling managers to explain lack of progress.

1.11.8 To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.

1.11.9 To monitor the counter-fraud strategy, actions and resources.

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

1.11.11 To review and monitor the Council's compliance with public sector financial and audit standards and guidance, in accordance with the CIPFA Codes and Accounts and Audit Regulations.

1.11.12 To review and monitor the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.

1.11.13 To monitor the Council's role as shareholder of Council companies and the effectiveness of the arrangements in this regard.

1.12 **Internal Audit**

1.12.1 To ensure that the Council has a sound system of internal control which -

(a) facilitates the effective exercise of its functions and the achievement of its aims and objectives;

(b) ensures that the financial and operational management of the Council is effective;

(c) includes effective arrangements for the management of risk;

(d) ensures compliance with policies, procedures and statutory requirements; and

(e) safeguards the Council's assets and interests.

1.12.2 To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.

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

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

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

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

1.12.7 To consider reports from the internal auditor on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:

(a) Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work;

(b) Regular reports on the results of the Quality Assurance and Improvement Programme;

(c) Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.

1.12.8 To consider the internal auditor's annual report:

(a) The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit

(b) 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 Annual Governance Statement

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

1.12.10 To receive reports outlining the 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 concerns about progress with the implementation of agreed actions.

1.12.11 To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.

1.12.12 To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations

1.12.13 To provide free and unfettered access to the Audit Committee Chair for the internal auditor, including the opportunity for a private meeting with the Committee.

1.13 External Audit

1.13.1 To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by PSAA or the authority's auditor panel as appropriate.

1.13.2 To consider the external auditor's annual audit letter, relevant reports, and the report to those charged with governance.

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

1.13.4 To comment on the scope and depth of external audit work and to ensure it gives value for money.

1.13.5 To commission work from internal and external audit.

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

1.14 **Financial Reporting**

1.14.1 To review and approve the annual Statement of Accounts. 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.

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

1.15 **Accountability Arrangements**

1.15.1 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.

1.15.2 To report to Council on a regular basis on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.

1.15.3 To publish an annual report on the work of the Committee.

1.16 **Related Functions**

1.16.1 To monitor and provide assurance in relation to Council policies relating to confidential reporting (whistleblowing) and anti-fraud and corruption.

1.16.2 Subject to the requirements set out below, to consider all findings of the Local Government and Social Care Ombudsman, including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be necessary in connection with the Ombudsman's findings.

(a) There are statutory obligations which will, in some circumstances, require reports to be taken to Cabinet or Council.

(b) The Ombudsman operates protocols in relation to the timing of the publication of findings. The Council would have to give consideration to those protocols when determining how to manage the Audit Committee's agenda.

1.16.3 To review any issue referred to it by the Chief Executive, Chief Finance Officer, Monitoring Officer or any Council body.

2 STANDARDS AND GOVERNANCE COMMITTEE

Composition

2.1 The Standards and Governance Committee will be comprised of 7 Councillors, or as may be determined each year by the Annual Meeting of Council, and is subject to the overall political balance requirements.

2.2 The Chair and Vice Chair will be appointed by Council annually.

Quorum

2.3 The Standards and Governance Committee quorum will be a third of the Committee membership.

Substitutes

2.4 Each political group may appoint reserve Councillors.

Competency

2.5 All members of the Standards and Governance Committee and Councillors attending as reserve Councillors must:

2.5.1 have undertaken appropriate training in the relevant law and procedures which relate to the Committee's work; and

2.5.2 undertake further appropriate training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director or Monitoring Officer.

Terms of Reference

2.6 To assist the Council in fulfilling its duty under the Localism Act 2011 to promote and maintain high standards of conduct by Councillors and Councillors of town and parish councils.

2.7 To advise the Council on the adoption or revision of its Code of Conduct for Councillors.

2.8 To monitor and advise the Council about the operation of its Code of Conduct for Councillors in the light of best practice and any changes in the law.

2.9 To approve the arrangements for dealing with allegations that a Councillor or a Town/Parish Councillor within the district has failed to comply with the relevant Councillors' Code of Conduct.

2.10 To determine whether a Councillor or Town/Parish Councillor has failed to comply with the relevant Code of Conduct.

2.11 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.

2.12 To assist the Council with the appointment of Independent Persons as required by the Localism Act 2011 and independent persons under other secondary legislation.

2.13 To assist the Council with the appointment of an Independent Remuneration Panel, as required by the Local Authorities (Members' Allowances) (England) Regulations 2003

2.14 To determine any request for a dispensation under Section 33 of the Localism Act 2011, where not determined by the Monitoring Officer, or to hear an appeal against a dispensation determination by the Monitoring Officer.

2.15 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.

2.16 To respond on behalf of the Council to national reviews and consultations on standards related issues.

2.17 To receive reports from the Monitoring Officer on standards related issues.

2.18 To consider and make recommendations to Council on any other matter that may be referred to the Standards and Governance Committee relating to the conduct and training of Councillors.

2.19 To approve the granting, to any Council employee, of a dispensation in relation to disqualification from political activities in accordance with the Local Government and Housing Act 1989;

2.20 To issue dispensations to any councillor in respect of statutory and non-statutory disclosable interests;

2.21 To approve and review as necessary the operation of whistleblowing procedures;

2.22 To consider reports arising from external inspections, audit investigations, Ombudsman investigations where maladministration is found, legal challenges and other sources which cast doubt on the honesty or integrity of the Council or its Members.

2.23 To undertake an annual review of the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA) ensuring compliance with Codes of Practice.

2.24 To keep the Council's constitutional arrangements under review and to make recommendations as to amendments and improvements to the Council's Constitution, including the codes and protocols, through the work of the Council's Constitution Review Working Group;

2.25 To consider and make recommendations on such other matters as the Committee itself considers to be appropriate or which are referred to it by Council, which further the aim of promoting and maintaining the highest standards of conduct within the Council;

2.26 To consider if there is a need for further training on Standards and Governance Matters and (through the Chair) to be a consultee of Member Steering Group when annual Member Training Plan is set each year; and

2.27 To keep the Council's Annual Governance Statement under review.

Constitution Review Working Group

2.28 The Standards and Governance Committee shall establish a working group of councillors to keep the Council's constitutional arrangements under review and shall delegate to the working group responsibility for reviewing and making recommendations to the Council on amendments and improvements to the Council's Constitution as appropriate.

2.29 Membership of the Constitution Review Working Group will comprise such Members of the Council as the Committee considers appropriate. The Leader (or deputy leader) of each Political Group shall be an ex-officio member of the Working Group.

Standards Panel(s)

2.30 A Standards Panel (including a Hearings Sub-Committee) shall be formed as a sub-committee established from time to time as required and shall be constituted of between

three (3) and five (5) members of the Standards and Governance Committee with responsibility for exercising arrangements under which decisions are to be reached on an allegation that a Member of the Council or of a town or parish council within the Council's area has breached the Members' Code of Conduct

2.31 The Panel may regulate, where necessary, its own procedures to deal with any matter arising in connection with its duties, provided that the procedures remain in accordance with the principles of decision making set out this Constitution. This includes that, subject to any statutory rules or procedures detailed elsewhere, a Panel acting as a tribunal, when all evidence has been submitted and speakers (if any) have finished, will hold discussion in the presence of the speakers and, as appropriate and in compliance with the Access to information Procedure Rules, the public and press, but the decision making may thereafter be taken in private adjournment.

2.32 It is expected that decisions will then normally be announced to those present and remaining post-adjournment, at least in summary form, before a decision is issued in writing.

3 STRATEGIC PLANNING COMMITTEE

Scope

3.1 The purpose of the Strategic Planning Committee is to consider strategic development management and related matters. More local matters are dealt with by one of the Local Area Planning Committees, which have been established on the local government boundaries of the predecessor Borough and District Councils (for the areas in which they were the Planning Authority), or by officers using delegated powers.

3.2 The Strategic Planning Committee will keep under review the distribution of powers between the Strategic Planning Committee and the Local Area Planning Committees. The Strategic Planning Committee will report back to Council with any recommendation that the distribution of powers be reallocated between the Strategic Planning Committee and the Local Area Planning Committees or otherwise varied.

3.3 The functions and scope of the Strategic Planning Committee were agreed by Full Council. The Strategic Planning Committee will agree and keep under review a scheme of delegation setting out which matters may be dealt with by the Strategic Planning Committee, the Local Area Planning Committees and which of its powers are to be discharged by an officer.

3.4 The development of planning policy is an executive function and carries out by the Council's Leader and Cabinet. The Strategic Planning Committee has a role in acting as consultee and commentator as part of that process.

Composition

3.5 The Strategic Planning Committee will comprise **8** Members, or as may be determined each year by the Annual Meeting of Council, and is subject to the overall political balance requirements.

3.6 The Chair and Vice-Chair will be appointed by Council annually.

Substitutes

3.7 Each political group may appoint reserve Councillors. Substitutes must have completed relevant training.

Quorum

3.8 The quorum will be a third of the Committee membership.

Competency

3.9 All members of the Committee and Councillors attending as reserves must:

3.9.1 have undertaken appropriate training in the relevant law and procedures which relate to the Committee's work; and

3.9.2 undertake further appropriate training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the Monitoring Officer or the Head of Planning; and

3.9.3 undertake an assessment of competency and knowledge.

3.10 The Strategic Planning Committee shall observe the Council's Planning Code of Conduct.

Terms of Reference

3.11 To exercise the Council's strategic functions relating to town and country planning and development management, highways (where such schemes cross more than one Local Area Planning Committee's area), footpaths and other rights of way.

3.12 Subject to those matters delegated to a Local Area Planning Committee or as may be determined as delegated to an officer under the Committee's Scheme of Delegation, the Strategic Planning Committee will determine all applications and consultations submitted to the Council on any planning matter, regarding:

3.12.1 Applications accompanied by an Environmental Statement with the exception of applications made under Section 73 and Section 96A where a revised Environmental Statement is not required

3.12.2 Residential development comprising more than 100 dwellings or site area exceeding 3 hectares;

3.12.3 Non-residential development proposals (including commercial, retail, and industrial developments) of more than 10,000 sq. m or 2 hectares of land;

3.12.4 Proposals for mineral extraction involving a new quarry or mine or for a physical extension to an existing quarry or mine or for waste disposal other than small scale works which are ancillary to an existing mineral working or waste disposal facility;

3.12.5 Applications for any type of renewable energy developments which cover an area of 5 hectares or more;

3.12.6 Proposals for the treatment of waste and the recovery of energy from waste including (without limitation) Advanced Thermal Treatment Processes such as an Energy from Waste Plant; or for an Incinerator or Gasification Plant or a Pyrolysis Plant;

3.12.7 Major road schemes including improvement schemes to existing roads which exceed 1 mile in length

3.12.8 Power to make a formal response to consultation on behalf of the authority in respect of Major developments outside of the area of the Council which may have implications that could impact on local residents (where 'Major development' means any form of development which would fall within the Committee's Terms of Reference if the development proposed were to take place in Westmorland and Furness);

3.12.9 Significant applications (meaning those kinds of development which otherwise fall within the Committee's Terms of Reference) by the Council to develop any land owned by the

Council, or for development of any land by the Council or by the Council jointly with any other person (Regulation 3 applications);

3.12.10 To determine any planning application which is recommended for approval contrary to the policies of the statutory development plan(s), including those applications which are of a kind or scale which would otherwise be determined by the Local Area Planning Committee; or

3.12.11 Any development, application or matter (not being one which is delegated by the Council to this Committee or a Local Area Planning Committee), which, in the opinion of the Head of Planning, is of strategic significance.

3.13 The Strategic Planning Committee will additionally exercise a consultation and advisory role, commenting upon the content of proposed planning policy and upon the effectiveness of existing policies employed in development control decisions.

4 LOCAL AREA PLANNING COMMITTEES

Committee Scope

4.1 The Council has established three Local Area Planning Committees, based on the local government boundaries of the predecessor Borough and District Councils of the areas of Barrow-in-Furness, Eden and South Lakeland. The Locality Boards are established as an "Area Committee" under Regulation 16A of the Local Government (Committees and Political Groups) Regulations 1990 and may discharge non-executive functions delegated to them by Council.

4.2 The functions and scope of the Strategic Planning Committee and the Local Area Planning Committee were agreed by Full Council. The Strategic Planning Committee will agree and keep under review a scheme of delegation setting out which matters may be dealt with by the Strategic Planning Committee, the Local Area Planning Committees and which of its powers are to be discharged by an officer.

4.3 The purpose of a Local Area Planning Committee is to consider local area based planning matters not otherwise reserved for consideration by the Strategic Planning Committee or else dealt with by planning officers under delegated powers.

Composition

4.4 The three Local Area Planning Committees will each be comprised of **8** Members, or as may be determined each year by the Annual Meeting of Council, whose wards are situated within the defined areas. The membership of each Local Area Planning Committees will be proportionate to the balance of membership of political groups within the defined areas.

4.5 To enable the composition of the three Local Area Planning Committees in this form, the Council has determined that the normal political balance requirements in respect of ordinary committees of the Council shall not apply, which was made subject to a vote of the Authority at which no elected Member objected (minute 12 (20 April 2023) of 2023/24 refers).

4.6 The Chair and Vice-Chair will be appointed annually by Council.

Substitutes

4.7 Named reserved members from each political group within the defined areas may act as substitutes for members of the Committee. Substitutes must have completed relevant training.

Quorum

4.8 The quorum will be a third of the Committee membership.

Competency

4.9 All members of the Committee and Councillors attending as reserves must:

4.9.1 have undertaken appropriate training in the relevant law and procedures which relate to the Committee's work; and

4.9.2 undertake further appropriate training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the Monitoring Officer or the Head of Planning; and

4.9.3 undertake an assessment of competency and knowledge.

4.10 The Local Area Planning Committees shall observe the Council's Planning Code of Conduct.

Terms of Reference

4.11 To exercise the Council's functions relating to smaller scale, non-strategic town and country planning and development management, highways, footpaths and other rights of way.

4.12 Subject to those matters reserved to the Strategic Planning Committee and as may be determined delegated to an officer under the Planning Scheme of Delegation agree by the Strategic Planning Committee the Committee will determine all applications and consultations submitted to the Council on any planning matter, including:

4.12.1 Residential development of up to and including 100 dwellings that is not part of a strategic development;

4.12.2 All non-residential development proposals (including commercial, retail, and industrial developments) of up to and including 10,000m2, or a site area of up to 2 hectares of land that is not related to a strategic development;

4.12.3 Applications for any type of renewable energy developments which cover an area of up to 5 hectares that is not related to a strategic development;

4.12.4 Major road schemes, including improvement schemes to existing roads, up to 1 mile in length that is not related to a strategic development;

4.12.5 The matters listed below:

(a) applications for 'hedgerow removal' (Hedgerow Regulations 1997, as amended);

(b) applications to undertake works to trees subject to a Tree Preservation Order or within a Conservation Area (Town and Country Planning Trees Regulations 1999, as amended);

(c) applications for remedial notices in respect of high hedges (Anti Social Behaviour Act 2003, as amended);

(d) applications for Hazardous Substances Consent (Planning Hazardous Substances Act, 1990, as amended);

(e) the obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976;

(f) powers related to Commons Registration;

(g) functions relating to public rights of way;

(h) the licensing and registration functions relating to the New Roads and Street Works Act 1991 and the Highways Act 1980; and

(i) functions relating to Town and Village Greens.

5 LICENSING AND REGULATORY COMMITTEES

Committee Structure

5.1 The licensing and regulatory licensing functions of the Council shall be carried out by the following bodies:

5.1.1 A full Regulatory Committee of not less than 10 but not more than 15 Councillors and is subject to the overall political balance requirements;

5.1.2 A full Licensing Committee who will be the same Councillors as the Regulatory Committee; and

5.1.3 Sub-committees to be established by each Committee to deal with individual applications, reviews and determinations to be made under the respective Committee's legislative regime.

Composition

5.2 The Regulatory Committee will comprise of **15** Councillors, or as may be determined each year by the Annual Meeting of Council which will be not less than 10 but not more than 15, and is subject to the overall political balance requirements

5.3 The Licensing Committee will comprise of the same Councillors as the Regulatory Committee. There may be no co-opted members.

5.4 Chair and Vice-Chair of the Licensing and Regulatory Committees will be appointed by **Council** annually.

Quorum

5.5 The quorum for each of the Licensing and Regulatory Committees will be a third of the Committee membership.

Substitutes

5.6 There shall be no reserve members. (Substitute members are not permitted under the Licensing Act).

Competency

5.7 All members of the Licensing and Regulatory Committees and Sub-Committees and any Councillors attending as substitutes must, before attending a meeting and participating in the determination of an application or appeal by any individual or body:

5.7.1 have undertaken appropriate training in the quasi-judicial nature of the Committee;

5.7.2 have undertaken appropriate training in the relevant law and procedures which relate to the Committee's work; and

5.7.3 undertake further appropriate training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.

Terms of Reference of Licensing Committee

5.8 Functions under both the Licensing Act 2003 and the Gambling Act 2005:

5.8.1 To determine applications for premises licences where relevant representations have been made;

5.8.2 To determine applications for provisional statements where relevant representations have been made;

5.8.3 To determine valid applications for review of premises licences where relevant representations have been made;

5.8.4 To determine whether a representation is irrelevant, frivolous or vexatious;

5.8.5 To determine whether to object when the Council is a consultee and not the relevant authority considering an application;

5.8.6 To decide on any other matter where it is necessary or desirable for Councillors to make that decision.

5.9 **Delegation of Functions**

Matter to be dealt with	Full Council	Licensing Committee or Sub-committee	Officers
To institute, defend or participate in any action or legal proceedings in respect of any matter relating to the functions (including, where not delegated to any other officer, the service of any notice or order or the exercise of any power of entry) in any case where such action is necessary to give effect to decisions of the Regulatory Committee, its Sub-Committees or any officer acting under delegated powers			**Senior manager with responsibility for this area in consultation with the Chief Legal Officer and Monitoring Officer**
To receive the minutes of the Sub-Committees		X	

To arrange additional meetings of the Licensing Committee and Sub-Committees if appropriate in each cycle.			**Senior manager with responsibility for this area**

X - INDICATES AT THE LOWEST LEVEL TO WHICH DECISIONS CAN BE DELEGATED.

5.10 **Functions under the Licensing Act 2003 alone:**

5.10.1 To determine applications for variations of premises licences where relevant representations have been made except in the case of minor variations;

5.10.2 To determine applications to vary designated premises supervisors following police objections;

5.10.3 To determine applications for transfer of premises licences following police objections;

5.10.4 To consider police objections made to interim authority notices;

5.10.5 To determine applications for club premises certificates where relevant representations have been made;

5.10.6 To determine applications to vary club premises certificates where relevant representations have been made except in the case of minor variations;

5.10.7 To determine valid applications for review of club premises certificates;

5.10.8 To decide whether to give counter notices following police objections to temporary event notices;

5.10.9 To determine applications for grants of personal licences following police objections;

5.10.10 To determine applications for grants of personal licences with unspent convictions;

5.10.11 To determine applications for grants of personal licences with convictions of offence during the application process;

5.10.12 To decide on revocation of personal licences where convictions come to light after grant;

5.10.13 To determine valid applications for review of premises licenses.

5.10.14 To classify films, not already classified by the British Board of Film Classification.

5.11 **Licensing Act 2003 – Table of Delegated functions**

Matters to be dealt with	Full Council	Sub-Committee	Officers
Final approval of Statement of Licensing Policy	X		
Application for personal licence		If objection made	If no objection made
Application for personal licence with unspent convictions or convictions of offences during the application process		If a police objection	If no objection made
Decision to suspend or revoke a personal licence due to the holder being convicted of a relevant conviction		If a police objection	If no objection made

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 Premises Licence/Club Premises Certificate by way of minor variation			All cases
Application to vary Designated Premises Supervisor (DPS)		If Police object	All other cases
Request to be removed as DPS			All cases
Application for transfer of Premises Licence		If a Police objection	All other cases
Application for Interim Authorities		If a Police objection	All other cases
Application to review Premises Licence/Club Premises Certificate		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 objection to a TEN		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
Determination of film classification		All cases	

6 FUNCTIONS UNDER THE GAMBLING ACT 2005 ALONE:

6.1.1 To determine applications for variations of premises licences where relevant representations have been made;

6.1.2 To determine applications for transfers of premises licences following representations by the Gambling Commission or others;

6.1.3 To determine applications for the re-instatement of premises licences where relevant representations have been made;

6.1.4 To decide whether to give counter notices following objections to temporary use notices;

6.1.5 To determine applications for the grant or renewal of club gaming permits and club machine permits where valid objections have been received;

6.1.6 To determine proposals to cancel club gaming permits and club machine permits where the licence holder requests a hearing;

6.1.7 When the licence holder requests a hearing, to determine orders removing the entitlement of an on-premises alcohol licence holder to have one or two gaming machines, or (ii) to cancel or vary a licensed premises gaming machine permit;

6.1.8 To determine applications for the grant or variation of licensed premises gaming machine permits;

6.1.9 To determine applications for the grant of temporary use notices where relevant representations have been made;

6.1.10 To determine valid applications for review of premises licenses.

6.2 Gambling Act 2005 - Delegation of Functions

Matter to be dealt with	Full Council	Licensing Committee or Sub-committee	Officers
Final approval of Statement of Gambling licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)		X	
Application for premises licences		Where relevant representations have been received and not withdrawn	Where no relevant representations received/representations have been withdrawn
Application for a variation to a licence		Where relevant representations have been received and not withdrawn	Where no relevant representations received/representations have been withdrawn
Application for a transfer of a licence		Where relevant representations have been received from the Commission	Where no relevant representations received from the Commission
Application for a provisional statement		Where relevant representations have been received and not withdrawn	Where no relevant representations received/representations have been withdrawn

Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no relevant objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Decisions on whether a matter is irrelevant frivolous or vexatious			X

6.3 **Licensing Sub-Committees**

6.4 Sub-Committees of three members of the Licensing Committee with responsibility for the Council's functions to deal with applications, determinations and reviews of licences, permissions and any related matter in respect of the Licensing Act 2003 or the Gambling Act 2005. Up to two further members of the Licensing Committee may attend with the Licensing Sub-Committee as observers.

6.5 The sub-committees make decisions in all individual cases where a hearing is required because of an objection to an application or to a proposed revocation or because of an officer recommendation for refusal.

6.6 The Licensing Committee has the power to make final decisions on behalf of the Council in relation to its functions in this part.

Terms of Reference for Regulatory Committee

6.7 The Regulatory Committee and its sub-committees have all the functions which are stated not to be the responsibility of the Council's Cabinet in Regulation 2 and paragraph B (Licensing and Registration) of Schedule 1 of The Local Authorities (Functions and

Responsibilities) (England) Regulations 2000 S.I. 2853, as amended, or further amended, in any statute or subordinate legislation. This includes (but is not necessarily limited to) scrap metal licensing, street trading, pavement licenses, special treatment premises, sex establishments, animal welfare licensing, dog breeding establishments, hackney carriage licenses (including vehicle and drivers licenses); private hire licenses (including vehicle, drivers and operators licenses and school transport drivers' licences); licensing marriage and entertainment and shops and food premises and safety of sports grounds.

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Hackney Carriage and Private Hire functions • The Town Police Clauses Act 1847 (as amended) • Local Government (Miscellaneous Provisions) Act 1976 (as amended) • Any other relevant legislation			
Limit the number of hackney carriage vehicles	X		
Set Hackney Carriage Tariff	X		
Create Hackney Carriage Stands	X		
Adopt a Hackney Carriage and Private Hire Policy	X		
Fee setting in relation to all hackney carriage and private hire related licences	X		
To Licence (first grant and renewal) all hackney carriage and private hire related licences (drivers, vehicles and operators)		X	If the application is in compliance with HC & PH Policy Senior manager with responsibility for this area
To refuse (first grant and renewal) all hackney carriage and private hire related licences (drivers, vehicles and operators)		X	Power to refuse if the application does not comply with the HC & PH Policy Senior manager with responsibility for this area
Power to suspend or revoke and reinstate all hackney carriage and private hire related licences. This includes, where applicable, immediate suspension and revocation on the grounds of public safety		X	Only immediate suspension and revocation on the grounds of public safety and limited to senior manager with responsibility for this area

Charitable functions • Police, Factories & c. (Miscellaneous Provisions) Act 1916 • House to house collections Act 1939			
Adopt a charity collection policy	X		
To issue House to House and Street Collection Permits			Senior manager with responsibility for this area
To refuse House to House and Street Collection Permits			Senior manager with responsibility for this area
Sex Establishments • Local Government (Miscellaneous Provisions) Act 1982			
Adopt a Sex Establishment Licensing Policy	X		
Fee setting for Sex Establishments	X		
Power to licence sex establishments (including first grant, renewal, transfer and variations)		On first grant Renewal: If objections are made and not withdrawn Revocation of sexual entertainment venue licenses	Renewal/Transfer/Variation: If no objections are received (or if objections are withdrawn) Senior manager with responsibility for this area
Street Trading • Local Government (Miscellaneous Provisions) Act 1982			
Adopt a Street Trading Policy	X		
Fee setting for Street Trading	X		
Power to issue and revoke Street Trading Consents/Licences (including first grant, renewal, transfer and variations)		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn Only immediate suspension and revocation on the grounds of public safety and limited to senior manager with responsibility for this area
Pavement Licences Business and Planning Act 2020			
To determine applications for pavement licences; to include setting the duration of the licence and attach such conditions as considered reasonably necessary and to take any necessary action in relation to the enforcement and			Senior manager with responsibility for this area

revocation of the licence.			
To consider internal reviews in accordance with process for Pavement Licences.		X	
Animal Licensing • Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 • Zoo Licensing Act 1981 • Dangerous Wild Animals Act 1976			
Adopt an Animal Licensing Policy	x		
Set Fees for animal licences	x		
Licence all animal related activities (including first grant, renewal)			Senior manager with responsibility for this area
Refuse all animal related activities (including first grant, renewal)			Senior manager with responsibility for this area
Power to revoke, suspend and vary an animal related licence (with or without consent of the licence holder)		x	Only immediate suspension and revocation on the grounds of animal welfare or public safety and limited to –senior manager with responsibility for this area
Power to close a zoo		x	Only immediate suspension and revocation on the grounds of public safety and limited to Director after giving the licence holder an opportunity to be heard
Addition of conditions or directions in relation to zoo licence		X	X after giving the licence holder an opportunity to be heard
Caravan, camping and moveable dwelling sites • Caravan Site and Control of Development Act 1960 • Public Health 1936 • Mobile Homes Act 2013 • Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020			
Adoption of a caravan and camping site policy	X		
To issue a caravan site/camping site licence (including first grant, renewal, transfer and variations)			Senior manager with responsibility for this area
To refuse a caravan site/camping site licence (including first		X	

grant, transfer and variations)			
To determine applications from a relevant person to be included on a register of fit and proper persons; to include attaching condition(s) as considered reasonably necessary to secure the proper management of the site, which may include a condition relating to the payment of an annual fee and to take any necessary action in relation to the removal from the register, enforcement and revocation of a site licence.			Senior manager with responsibility for this area
Hypnotism • Hypnotism Act 1952			
Set fees for hypnotism licences	X		
Licence performances of hypnotism			Senior manager with responsibility for this area
Refuse a licence for the performance of hypnotism		X	
Beauty related (ie tattooing, piercing, electrolysis, acupuncture) • Local Government (Miscellaneous Provisions) Act 1982 and Byelaws made under this legislation			
Set fees for beauty related registrations	x		
Register individuals and premises for beauty related activities			x
Adopt or amend Byelaws	x		
Pleasure Boat Licensing (except for in relation to Lake Windermere) Public Health Acts (Amendment) Act 1907			
Adopt Pleasure Boat Licensing Policy	X		
Fee setting for Pleasure Boat Licensing	X		
Power to issue, suspend and revoke Pleasure Boat Consents/Licences (including first grant,			Senior manager with responsibility for this area

renewal, transfer and variations)			
Trading Standards			
Weights and Measures Act 1985, Section 75 Appointed as the Chief Inspector of Weights and Measures			Trading Standards Manager
Sports Grounds			
To exercise functions in relation to the Safety of Sports Grounds			Trading Standards Manager
To receive reports regarding safety of sports grounds on an annual basis and also in circumstances where the Trading Standards Senior Manager has taken urgent decisions under his delegated powers in respect of safety of sports grounds.			Trading Standards Manager
General			
To institute, defend or participate in any action or legal proceedings in respect of any matter relating to the functions (including, where not delegated to any other officer, the service of any notice or order or the exercise of any power of entry) in any case where such action is necessary to give effect to decisions of the Regulatory Committee, its Sub-Committees or any officer acting under delegated powers			Senior manager with responsibility for this area in consultation with the Chief Legal Officer and Monitoring Officer
To arrange additional meetings of the Regulatory Committees and Sub-Committees if appropriate in each cycle.			Senior manager with responsibility for this area
To receive the Sub-Committee Minutes		X	

Regulatory Sub-Committees

6.8 The Regulatory Committee may establish Sub-Committees of between three and five members of the Committee, which shall consist of members of more than one political group but shall otherwise not be subject to political balance (Council minute **12 (20 April 2023)** of 2023/24 refers), with responsibility for the Council's functions to deal with applications, determinations and reviews of licenses or registrations and any related matter in respect of any licensed activity that is the responsibility of the Authority (other than under the Licensing Act 2003 or the Gambling Act 2005)

*NB Requires a distinct vote where no member of Council votes against this. The minute number is then recorded here.

6.9 The sub-committees make decisions in all individual licensing or registration cases where a hearing is required because of an objection to an application or to a proposed revocation or because of an officer recommendation for refusal as outlined in the table in paragraph 6.7 above. This includes making decisions as to:

6.9.1 whether or not to suspend, and/or

6.9.2 revoke, and/or

6.9.3 refuse to renew, and/or

6.9.4 amend any conditions of any existing licence/permit/consent in any case which is referred to the Regulatory Committee by the designated officer where the holder has been:

(a) convicted of an offence involving dishonesty, indecency or violence, and/or

(b) convicted of an offence or has failed to comply with the statutory provisions relating to the issue of any licence/permit/consent, or

(c) in breach of any conditions attached to the issue of any licence/permit/consent, and/or

(d) referred for any other reasonable cause.

6.9.5 To determine applications for grants of licence/permit/consent with unspent convictions;

6.9.6 To determine applications for grants of licence/permit/consent with convictions of offence during the application process.

The Regulatory Committee has the power to make final decisions on behalf of the Council in relation to its functions in this part.

7 OVERVIEW AND SCRUTINY COMMITTEES

Composition

7.1 The Council has established the following Overview and Scrutiny Committees, comprising the specified number of Councillors in political balance:

Title	No. Members
Corporate Overview and Scrutiny Committee	**9**

Children, Young People and Families Overview and Scrutiny Committee	**9**
Health and Adults Overview and Scrutiny Committee	**9**
Communities and Environment Overview and Scrutiny Committee	**9**

Note: See Joint Committees at Part 2 section 5 12 for details of

- **Joint Cumberland and Westmorland Overview & Scrutiny Committee**
- **Cumbria Police, Fire and Crime Panel**

7.2 Members of the Committees must not be Cabinet Members.

7.3 The Chairs and Vice Chairs will be appointed by Council annually. Whenever practicable, the Chair of the Corporate Overview and Scrutiny Committee and either the Chair or the Vice Chair of other Scrutiny Committees shall be from a political group other than those members forming the Cabinet or shall be an Independent Member.

Substitutes

7.4 Each political group may appoint reserve Councillors (excluding Cabinet Members)

Quorum

7.5 The quorum for each Overview and Scrutiny Committee will one third of its membership.

Terms of Reference of the Overview and Scrutiny Committees – General

7.6 The Overview and Scrutiny Committees:

7.6.1 will discharge the Council's functions under section 9F Local Government Act 2000;

7.6.2 will be responsible for the preparation, implementation, monitoring and review of an annual work programme in accordance with the objectives of the Council Plan and arrangements for the scrutiny of other public bodies particularly where required to do so by law.

7.6.3 may establish such sub-committees or task and finish groups, appointing the Chair in accordance with the Council's criteria and with such membership as it sees fit, to undertake scrutiny on a task and finish basis.

7.6.4 will, as part of the overall role, ensure the Chief Executive and Corporate Management Team discharge their responsibilities effectively and efficiently in relation to the overview and scrutiny function.

7.6.5 will scrutinise decisions of or actions taken by the Cabinet, and offer advice or make recommendations on the matter under scrutiny once the relevant Overview and Scrutiny Committee has considered the issues

7.6.6 may scrutinise matters coming before Cabinet for decision and respond appropriately to the Cabinet on the matter once the relevant Overview and Scrutiny Committee has considered the issues fully

7.6.7 will review or scrutinise decisions or actions taken in respect of any functions which are not the responsibility of the Cabinet and within the remit of the relevant Overview and Scrutiny Committee, and make reports or recommendations to the Full Council, or appropriate body of the Council

7.6.8 may refer to the Council or appropriate committee/sub-committee any matter which, following scrutiny, the relevant Overview and Scrutiny Committee determines should be brought to the attention of the Full Council or the committee or sub-committee and may, if requested, offer any views or advice to the Cabinet in relation to any matter referred to the committee for consideration

7.6.9 may undertake reviews with a cross-service approach and make reports and recommendations to the Full Council (or other appropriate Council body) or the Cabinet to assist in the review of policies and strategies

7.6.10 may offer advice and make recommendations to the appropriate body of the Council on the review of policy, services and aspects of services where there is an identifiable need, by itself or through setting up a Task and Finish Group

7.6.11 in performing its role, the relevant Overview and Scrutiny Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations

7.6.12 may recommend that a decision made but not yet implemented, and taken in respect of a function which is the responsibility of the Cabinet be reconsidered by the Cabinet

7.6.13 may scrutinise decisions after implementation to examine their effect and outcomes

7.6.14 may make reports or recommendations to the appropriate body of the Council in respect of any matters which affect the Council's area or its inhabitants

7.6.15 may review and make recommendations in relation to matters which are not the direct responsibility of the Council but which affect the social, economic or environmental well-being of an area or the Council's area as a whole or under any statutory requirement or Council contract, procedure or practice

7.6.16 may give partner authorities notice in writing requiring them to have regard to the report or recommendations of the Committee in exercising their functions

7.6.17 may invite expert witnesses, Councillors, officers and partners to answer questions

Terms of Reference of the Overview and Scrutiny Committees – Individual

7.7 The division of areas on interest for each Overview and Scrutiny Committee shall be as set out below. Areas of interest that cover one or more areas may be subject to joint working or division as may be determined between the Chairs of the Committees between them.

7.7.1 **Corporate Overview and Scrutiny Committee**

Composition

(a) Members will be the Chair and Vice Chairs of:

(i) the Children, Young People and Families Overview and Scrutiny Committee;

(ii) the Health and Adults Overview and Scrutiny Committee

(iii) the Communities and Environment Overview and Scrutiny Committee;

(iv) the Chair or Vice Chair (whichever is the Westmorland and Furness Councillor) of the Cumberland and Westmorland and Furness Joint Scrutiny Committee; and

(v) Such other Members of the Council's Overview and Scrutiny Committees are required to ensure political balance requirements are met.

Terms of Reference for the Corporate Overview and Scrutiny Committee

(b) The Corporate Overview and Scrutiny Committee:

(i) will have overall responsibility for the Council's scrutiny function including the approval of an overall work programme for overview and scrutiny in accordance with the objectives of the Council Plan and arrangements for the scrutiny of other public bodies particularly where required to do so by law and will provide overview and scrutiny of management of the Council's resources and council-wide programmes and activity

(ii) may review the Council's response to its obligations in respect of the overall performance management regime and, where appropriate, to advise the Cabinet or appropriate body of the Council of its findings

(iii) may advise the Cabinet and Full Council, as appropriate, of Scrutiny's response to the formulation of the Council's Budget and performance management reports

(iv) will ensure, in conjunction with the Standards and Governance Committee, that the Council has in place appropriate mechanisms to protect organisational integrity, including the development of appropriate policies and guidance

(v) will consider and advise the Cabinet in respect of "call-in" notices under the Council's relevant procedures.

(vi) will work with or appoint representatives to work with other local authorities and organisations to carry out joint scrutiny.

(vii) will create Task Groups and set their Terms of Reference, to fulfil the Overview and Scrutiny requirements of the Council and the Overview and Scrutiny Work Programme.

(viii) will approve an Annual Overview and Scrutiny Work Programme, to be kept under review and updated as required.

(ix) will produce an Annual Report to Full Council for the scrutiny process.

(x) will report to Full Council as required on Scrutiny's performance in relation to the terms of reference and the effectiveness of the Overview and Scrutiny committees in meeting their purpose.

(xi) will review and scrutinise Cumbria Local Enterprise Partnership in line with the LEP's assurance framework. The Committee will review and scrutinise:

A strategic decisions of the LEP

B the LEP's progress and performance in delivery programmes under the management of the LEP

C the delivery by the LEP of its strategies.

7.7.2 **Children, Young People and Families Overview and Scrutiny Committee**

Composition

(a) In addition to the requirements of paragraphs 7.1 – 7.4 above, the Children, Young People and Families Overview and Scrutiny Committee shall include in its membership the following voting representatives:

(i) Church of England diocese representative (1);

(ii) Roman Catholic diocese representative (1); and

(iii) Parent Governor representatives (3).

If the Committee deals with issues other than Education matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

Terms of Reference for the Children, Young People and Families Overview and Scrutiny Committee

(b) Overview and Scrutiny of all the powers and duties of the Council relating to children, young people and families.

7.7.3 **Health and Adults Overview and Scrutiny Committee**

Composition

(a) As set out in paragraphs 7.1 – 7.4 above.

Terms of Reference for the Health and Adults Overview and Scrutiny Committee

(b) Overview and Scrutiny of all the powers and duties of the Council relating to health, public health adults, housing and homelessness and public protection

(i) To discharge the functions conferred on the Authority by Section 244 of the National Health Service Act 2006 and any regulations made thereunder, matters relating to the planning, provision and operation of health services in Cumbria.

(ii) To make reports and recommendations on matters relating to the health service in Westmorland and Furness to local NHS bodies and to the Council (including the health and wellbeing of Westmorland & Furness' population).

(iii) To act as consultee as required by the relevant regulations in respect of those matters on which local NHS bodies must consult the Authority.

(iv) To consider and respond to referrals from the Cumbria Health Watch on health matters under the Local Government and Public Involvement in Health Act 2007 as amended by the Social Care Act 2012.

(v) To undertake and arrange joint health scrutiny arrangements where necessary to support effective consultation with NHS bodies or local health service providers on any proposal for a substantial development of or variation in health services

7.7.4 **Communities and Environment Overview and Scrutiny Committee**

Composition

(a) As set out in paragraphs 7.1 – 7.4 above.

Terms of Reference for the Communities and Environment Overview and Scrutiny Committee

(a) Overview and Scrutiny of all the powers and duties of the Council relating to the environment, safer/stronger and inclusive communities and planning, highways, transport and economic regeneration.

(b) To discharge the Council's scrutiny functions in relation to the reduction of flood risk.

(c) To discharge the Council's scrutiny functions in relation to Crime and Disorder, Community Safety, and fear of crime, including CONTEST, Prevent and Channel and any similar policy initiatives. To perform the role of Crime and Disorder Committee under section 19 of the Police and Justice Act 2006, to review and scrutinise decisions made or other action taken in connection with the discharge by the Council of its crime and disorder functions, including the work of the Westmorland and Furness Community Safety Partnership Committee.

Note; CONTEST refers to the National Counter Terrorism Strategy which is split into four workstreams known as the 4Ps. This includes "Prevent" which is intended to stop individuals being drawn into, or supporting, terrorism and includes countering terrorist ideology and challenging those who promote it. A key element is "Channel" which is intended to protect the vulnerable being drawn into terrorism. The Council has the statutory responsibility to lead the Channel Panel, a multi-agency approach to protecting the vulnerable, by identifying those at risk, assessing the nature and extent of the risk and developing support plans for individuals.

8 HEALTH AND WELLBEING BOARD

8.1 The Health and Wellbeing Board exists to provide strategic leadership and promote closer integration of health and care, through partners working together to ensure that everyone in the area is able to benefit from improvements in health and wellbeing. The Health and Wellbeing Board will discharge the functions set out in in the Health and Social Care Act 2012.

8.2 The Health & Wellbeing Board will be accountable to the Cabinet and Full Council in its capacity as a statutory Board of the local authority and will be subject to overview and scrutiny via Health and Adults Overview and Scrutiny Committee. Executive functions will be exercised in accordance with the executive scheme of delegation approved by the Leader from time to time.

8.3 The Board will meet four times a year, or as business requires.

Composition

8.4 Membership of the Board will be:

Leader - Westmorland and Furness
Cabinet Member with portfolio for Adult Care W&F
Cabinet Member with statutory responsibility for Children's Services
Cabinet Member with portfolio for Sustainable Communities & Localities W&F
Cabinet Member with portfolio for Housing and Customer Services
Councillor Hanley
Chief Exec W&F
*Director Children's Services W&F
*Director Adult & Social Care Services W&F
*Director Public Health W&F
*Representative of Lancashire and South Cumbria ICB - Director of Health & Care Integration – South Cumbria
*Representative of North East and North Cumbria ICB - Director of Delivery – North Cumbria
**Chair North Cumbria Integrated Care NHS Foundation Trust

**Chair of University Hospital Morecombe Bay Trust
**Chair of Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust
**Chair of Lancashire and South Cumbria NHS Foundation Trust
*Representative NHS England
*Representative Healthwatch Westmorland and Furness
Representative Voluntary and Community Sector
Housing Provider Representative
Representative of Harrogate and District NHS Foundation Trust

8.5 Substitutes

8.6 Substitutes will be permitted; however, membership should be reviewed if a named Board member does not attend for three consecutive meetings. If a substitute is to attend the meeting, then the council must be given notice by 5.30pm the day before the meeting.

8.7 The Chair will be appointed by Council annually and two Vice Chairs will be appointed by the Board annually. One of the Vice-Chairs will be nominated from an NHS Organisation and the other from the VCFSE sector.

8.8 In carrying out its role, the Board may:

8.8.1 Establish sub-committees and task groups.
8.8.2 Commission and receive reports from its sub-committees and task groups to take up additional work on research on policies, service improvement and local needs.
8.8.3 Invite appropriate representatives and bodies to give evidence.

Quorum

8.9 Quorum for the Health and Wellbeing Board will be one third of its membership.

Role of the Board

8.10 The Health and Wellbeing Board has the following functions:

8.10.1 **Integrated Working** - For the purpose of advancing the health and wellbeing of the people in its area the Board will encourage integration and partnership working between persons/bodies who arrange for the provision of any health related services / health and social care services. Specifically, the Board is responsible for:

(a) encouraging the development of integrated working with all partners in order to improve outcomes for local communities
(b) encouraging the delivery of joined up care between providers in order to improve health and wellbeing outcomes and reduce health inequalities
(c) encouraging the development of vibrant community places, linking local partners to address the wider determinants of health
(d) encouraging collaboration, joint commissioning and pooled budgets, where this provides better integrated service delivery and outcomes.
(e) discharging all functions relating to the Better Care Fund that are required or permitted by law to be exercised by the Board including: Agreeing the Better Care Fund; and overseeing the delivery of the Better Care Fund and Improved Better Care Fund.

8.10.2 **Understanding** - To identify and develop a shared understanding of the needs and opportunities for improving people's health and wellbeing in the area and to lead the development of a Joint Strategic Needs Assessment. Specifically, the Board is responsible for:

(a) assessing the needs of the local population and lead the production and publication of the statutory joint strategic needs assessment ('JSNA')
(b) ensuring that the JSNA is based on the best evidence and data available so that it is fit for purpose and reflects the needs of local people, users and stakeholders
(c) ensuring that the JSNA drives the development of the Joint Local Health and Wellbeing Strategy and influences other key plans and strategies across the area
(d) preparing a Pharmaceutical Needs Assessment for the area at least every three years.

8.10.3 **Strategy** - To prepare and publish a Joint Local Health and Wellbeing Strategy (JLHWBS) for Westmorland and Furness to ensure that the services required to meet the needs identified in the JSNA are delivered in a planned, coordinated and measurable way. Specifically, the Board is responsible for:

(a) developing an agreed set of strategic priorities to focus both collective effort and resources across the area
(b) ensuring plans and priorities, within both individual organisations and for systems, are aligned and support the delivery of the ICP Integrated Strategy.

8.10.4 **Assurance** - To ensure a collective awareness of the major changes, pressures and risks across health and wellbeing services and provide opportunity to review, comment and consider the opportunities for collaborative approaches to address or manage these in order to deliver the JLHWBS. Specifically, the Board is responsible for:

(a) overseeing and reviewing performance in the delivery of the Joint Local Health and Wellbeing Strategy – In particular ensuring that the Local Integrated Care Partnerships, Place Based Partnerships, Local Authorities, Integrated Care Boards and NHS England demonstrate how the JSNA has driven decision making. The JLHWS should directly inform the development of joint commissioning arrangements (see section 75 of the National Health Service Act 2006) in the place and the co-ordination of NHS and local authority commissioning, including Better Care Fund plans

(b) Undertaking the assurance functions set out in the 2022 Guidance around ICB:

- Forward Plans
- Annual Reports
- Performance Assessments
- Joint Capital Resource Use Plans

8.11 The Health and Wellbeing Board may have additional functions as may be locally agreed and as may be delegated.

9 STAFFING COMMITTEE

Composition

9.1 The Staffing Committee will comprise 7 Members, or as may be determined each year by the Annual Meeting of Council, and is subject to the overall political balance requirements.

9.2 At least one of the Councillors appointed shall be a Cabinet Member and must be present at all meetings concerning the appointment or disciplinary action related to a chief officer or deputy chief officer.

9.3 The Chair and Vice Chair will be appointed by Council annually.

Quorum

9.4 The Staffing Committee quorum will be a third of the Committee membership.

Substitutes

9.5 Each political group may appoint reserve Councillors.

Competency

9.6 All members of the Staffing Committee and all Councillors attending as reserves must:

9.6.1 have undertaken mandatory training in the relevant law and procedures which relate to the Committee's work; and

9.6.2 undertake further mandatory training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.

Terms of Reference for the Staffing Committee

9.7 To undertake those functions, not reserved to Council, in relation to the appointment of, determination of terms and conditions of employment for, and dismissal of Chief Officers, in accordance with the Employment Procedure Rules set out at Part 3 of the Constitution.

9.8 To undertake the Council's functions in relation to disciplinary action involving the Head of Paid Service, the Monitoring Officer, and/or the Chief Finance Officer, in accordance with the Employment Procedure Rules set out at Part 3 of the Constitution through the appointment of an Investigation and Disciplinary Sub-Committee (IDSC) of three members, one of whom must be a Cabinet member, to perform the role required by the JNC for Chief Executives and Chief Officers Terms and Conditions of Service Handbook. Disciplinary action includes matters related to capability for these purposes. In the event that the Committee hears a matter that could result in the dismissal of a Statutory Officer then the Independent Persons Panel shall be convened as soon as a recommendation is made by the Committee.

9.9 The IDSC shall consider and determine whether a Statutory Officer should be suspended either immediately or following a preliminary investigation into their conduct (and to review the suspension periodically and within 90 days of the original suspension or previous review). Where the Chair of the Staffing Committee determines that a decision on suspension is required immediately, in the exceptional situation whereby allegations of misconduct are such that their continued presence at work poses a serious risk to the health and safety of others or to the resources, information or reputation of the Council, the Monitoring Officer (or Chief Executive if the Monitoring Officer is the subject of the disciplinary action, or Deputy if conflicted) in consultation with the Chair can take that decision without recourse to the IDSC. A decision to suspend should be reviewed by the IDSC as soon as it is practicable to do so. The IDSC shall have the power to appoint an independent Investigator and independent advisors, if required.

9.10 To make decisions in relation to **special severance payments** resulting in proposed termination and/or severance packages for Chief Officers with a total value not exceeding £100k, or otherwise in accordance with the Council's Pay Policy Statement.

9.11 To establish sub-committees to act as an appeal panel to consider appeals against dismissal, grading and grievances by Chief Officers (except that there shall be no appeal against dismissal for the Head of Paid Service, Chief Finance Officer or Monitoring Officer). Where exercising the function of an appeal panel, membership shall consist of three Councillors, including at least one Cabinet Member, who have not been involved in the original relevant decision.

9.12 To establish sub-committees to determine matters relating to matters where there is a right of appeal to, or the right to request a review by, a committee or panel of Members

9.13 To consider and recommend to Council for approval the Annual Pay Policy Statement.

10 INDEPENDENT PERSONS PANEL

Composition

10.1 At least two of the Independent Persons appointed by the Council under section 28(7) of the Localism Act 2011 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. The Monitoring Officer shall invite the Independent Persons, as necessary/appropriate.

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

10.2.1 an Independent Person who has been appointed by the authority and who is a local government elector in the Council's area

10.2.2 any other Independent Person who has been appointed by the authority

10.2.3 an Independent Person who has been appointed by another authority or authorities.

Competency

10.3 Independent Persons must have undertaken appropriate training.

Functions of the Independent Persons Panel

10.4 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 the Council on matters relating to the dismissal or likely dismissal of the officers designated as the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer (together the "Designated Statutory Officers" or "DSOs") in accordance with Schedule 3 to The Local Authorities (Standing Orders) (England) Regulations 2001.

10.5 The advice of the Independent Persons Panel must be sought in accordance with the Employment Procedure Rules where the Staffing Committee propose to recommend to Council the dismissal of a DSO.

10.6 The advice of the Independent Persons Panel may (but need not) be sought by the Staffing Committee at any other point in an investigation under the process for dealing with disciplinary matters concerning a DSO or (if not conflicted) by the Appeals Panel of the Staffing Committee in respect of an appeal against a decision by the Staffing Committee in relation to disciplinary action concerning a DSO which is short of dismissal.

10.7 For the avoidance of doubt, the Panel may commission and have access to external legal and professional advice.

11 LAKE ADMINISTRATION COMMITTEE

Committee Scope

11.1 The Council, as successor to the South Lakeland District Council, are the owners of land forming the bed of Lake Windermere On 21st April 1975, South Lakeland District Council entered into an agreement for the administration of Windermere Lake with Windermere Parish Council (now Windermere and Bowness Town Council) and the Lakes Parish Council ('the 1975 Agreement').

11.2 In consideration of the Windermere Parish Council foregoing their right to register a dispute to the transfer of the bed of the Lake to the Council, the 1975 Agreement transfers the administration of all Lake matters, including the management of the former South Lakeland

District Council's properties connected with Lake Windermere, to the Lake Administration Committee as set out below.

11.3 The Lake Administration Committee governance arrangements continue as devised, in respect of which:

11.3.1 the full voting membership of the co-opted town and parish councillors are recognised pursuant to Reg. 5(2)(e)(iii) of the Local Government (Committees and Political Groups) Regulations 1990; and

11.3.2 the delegated functions of the Lake Administration Committee as set out in the 1975 Agreement are recognised as a non-executive function pursuant to Reg. 2(10) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

Composition

11.4 Lake Administration Committee will be comprised of members as set out in the 1975 Agreement.

11.5 As a Committee appointed under ss.101 and 102 of the Local Government Act 1972, the 16 Members of the Council appointed to the Committee must be subject to political balance requirements*.

11.6 In accordance with the 1975 Agreement, the Chair and Vice Chair of the Committee will be appointed from the 16 Council Members of the Committee at the first meeting following the annual meeting of Council.

Quorum

11.7 The quorum will be one quarter of the membership, being 6 members present including Council Members and co-opted town and parish council members and of those persons present the Council Members shall be in the majority.

Substitutes

11.8 Windermere and Bowness Town Council and Lakes Parish Council may each appoint named reserve members.

11.9 Each political group of the Council may appoint reserve Councillors.

Terms of Reference for the Lake Administration Committee

11.10 The Committee shall be responsible for the exercise of all of the Council's functions concerning the administration of the Lake, including the management of the former South Lakeland District Council's properties connected with the Lake.

11.11 Subject to 11.12 below, the Council undertakes to make available to the Committee:

11.11.1 the necessary monies to carry out the functions as delegated at 11.10 above; and

11.11.2 the appropriate staff to execute the decisions of the Committee.

11.12 The Committee shall report and obtain approval of full Council (there being no successor to the Policy & Finance Committee referenced in the 1975 Agreement) before acting on any matter involving the adoption of any new policy or the substantial extension or substantial modification of any existing policy.

11.13 The Committee may establish a sub-committee of its membership or working group as it sees fit.

11.14 The Committee may provide instruction or authority to act, directly or through a general scheme of delegation, to a sub-committee or an officer of the Council in exercise of its responsibilities under 11.10 above.

11.15 The Council Procedure Rules and Protocols as contained in the Constitution shall apply to the Lake Administration Committee but where a conflict arises between the Council Procedure Rules and Protocols and the terms of the 1975 Agreement, the 1975 Agreement takes precedence.

11.16 Any dispute between the principal Council, Town Council or Parish Council in respect of these terms of reference as provided for by the 1975 Agreement are to be referred to a single arbitrator under the Arbitration Act 1996 (as may be amended or superseded).

NB* Should there be a conflict between the Council being able to comply with both the political balance requirements under the LGHA 1989 and the terms of the 1975 Agreement to appoint 8 Members either representing wards incorporating Parishes abutting Lake Windermere or having experience of Lake Administration, then the Council may:

(i) Apply the political balance calculation, which will require agreement from the town and parish councils to interpret this requirement of the 1975 Agreement as meaning that it is to be applied only so far as it is practicable to do so; or

(ii) Disapply the political balance rules, which will require a vote of the Council at the Annual Meeting in each and every year that the disapplication is to apply and at which no Member votes against the proposal.

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12 JOINT ARRANGEMENTS

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

12.1.1 Enter into arrangements or agreements with any person or body;

12.1.2 Cooperate with, or facilitate or coordinate the activities of, any person or body; and

12.1.3 Exercise on behalf of that person or body any functions of that person or body.

12.2 The Council may establish joint arrangements with one or more local authorities and/ or their executives to exercise functions which are not executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other Authorities.

12.3 The Leader may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

12.4 Joint arrangements may be established to discharge a number of functions on behalf of a Council, some of which are the responsibility of the Cabinet and some of which are the responsibility of the Council as a whole, and appointment of members of the joint committee to represent the Council must be made with the agreement of the Leader. The political balance requirements will not apply.

12.5 Except as set out below, the Leader may only appoint Cabinet Members to a joint committee and those Councillors need not reflect the political composition of the Council as a whole.

12.6 The Leader may appoint Councillors to a joint committee who are not members of the Cabinet in the following circumstances:

12.6.1 where the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the council by area or population. In such cases, the Executive may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area;

12.6.2 where the joint committee is discharging a function in relation to five or more local authorities. In this case, the Leader may appoint to the joint committee any member of the Council and the political balance requirements do not apply to such appointments;

12.6.3 where the function which the joint committee is discharging is a function which is required by statute to be discharged by a joint committee. In this case, the Leader may appoint to the joint committee any member of the Council and the political balance requirements do not apply.

Access to Information

12.7 The Access to Information Rules in this Constitution apply.

12.8 If all the members of a joint committee are members of the Cabinet/ Executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.

12.9 The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council.

Delegation to and from other Local Authorities

12.10 The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another authority.

12.11 The Leader may delegate executive functions to another local authority or the executive of another authority in certain circumstances.

12.12 The decision whether or not to accept such a delegation of non-executive functions from another local authority shall be reserved to Council. The decision whether or not to accept a delegation of executive functions from another local authority shall be reserved to the Leader. Where a joint committee is exercising both executive and non-executive functions then the arrangements will be agreed by both Cabinet and Council.

Contracting Out

12.13 The Leader may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994 or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

13 JOINT COMMITTEES

The Council has the following Joint Committees:

Shared (Hosted) Functions and Services

13.1 **Joint Executive Committee**

13.1.1 A Joint Executive Committee has been established under an Inter-Authority Agreement to oversee the management of those services which are provided on a Cumbria-wide basis on behalf of the Cumberland and Westmorland and Furness Authorities to ensure effective delivery of such services and to provide strategic direction

13.1.2 **Joint Executive Committee - Composition**

(a) Each Authority shall appoint (4) Members (being executive/ cabinet members) as its nominated members of the Joint Executive Committee. The Members appointed will have full voting rights.

(b) Each Authority may nominate one or more substitute Members to attend any meeting in place of an appointed Member (who shall also be executive members) subject to notification being given to the Monitoring Officer via the relevant Democratic Services before the start of the meeting. The Member appointed as a substitute shall have full voting rights.

(c) Each member of the Joint Executive Committee shall comply with the Code of Conduct of their Authority when acting as a member of the Joint Executive Committee.

(d) Each member of the Joint Executive Committee shall serve on the Joint Executive Committee for as long as they are appointed to the Joint Executive Committee by the relevant Authority but a Member shall cease to be a member of the Joint Executive Committee if they cease to be a member of the Cabinet/Executive appointing them or if the relevant Authority removes them from the Joint Executive Committee.

(e) Meetings of the Joint Executive Committee shall be carried out on a rotational basis in alternate Authority areas.

(f) The Authority hosting the first meeting shall appoint one of its nominated members as Chair and that member shall remain Chair until the first meeting taking place after the elapse of 6 months from the time of their appointment unless they cease to be a member of the Joint Executive Committee. On the expiry of the first Chair's term of office as Chair, the Authority which did not appoint the first Chair shall appoint one of its nominated members as Chair for a period of 6 months from the time of their appointment. The same procedure shall be followed for the appointment of the Chair in subsequent years.

(g) The Authority not appointing the Chair of the Joint Executive Committee in any year shall appoint one of its nominated members as Vice Chair.

(h) Proposed key decisions of the Joint Executive Committee will be published on the Forward Plan for each Authority in accordance with their own Access to Information Rules.

(i) Meetings will be governed by the Cabinet Procedure Rules and the Access to Information Rules for each Authority, including public speaking and questions, and where they might differ will be those of the Authority of the Chair unless otherwise agreed between the Monitoring Officers of the two Authorities as to which of the two sets of Rules will be applied.

(j) The Joint Executive Committee shall normally meet once every two months (bi-monthly) unless otherwise determined by the Joint Executive Committee. Cancellation of meetings shall be agreed by the Joint Executive Committee or both Leaders.

(k) The Authority providing the Chair shall also provide the host arrangements for Democratic Services and for the Monitoring Officer to act as proper officer to the Joint Executive Committee.

(l) Additional meetings can be called by the relevant Monitoring Officer by providing at least five clear days' notice to members of the Joint Executive Committee, for the

purposes of resolving urgent matters arising between the bi-monthly meetings. Additional meetings may be called if either Leader requests it.

(m) The relevant Democratic Services will send out the agenda, record minutes and arrange for the sign off of minutes in accordance with the procedure rules for the relevant Authority.

(n) A meeting of the Joint Executive Committee will require a quorum of at least two members from each Authority.

13.1.3 **Joint Executive Committee - Terms of Reference**

Pursuant to Section 101 of the Local Government Act 1972, and to their powers under section 9EB LGA of the Local Government Act 2000 and Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, the Authorities' Executives have charged the Joint Executive Committee with responsibility for the exercise of:

(a) Developing and approving the Service Strategies for each of the shared Functions and Services.

(b) Ensuring that Service Strategies and the resources and budgets required to deliver the Service Strategies are in place.

(c) Agreeing the responsibilities of each Authority to deliver the Service Strategies, including any specific responsibilities of the Host Authority and that the responsibilities are documented within the Service Strategies.

(d) Ensuring that the services are provided within the policy and budget set by the Authorities.

(e) Ensuring that the arrangements ensure that each Authority's statutory responsibilities are met.

(f) Overseeing the implementation of the Service Strategies, including reviewing the performance of the services against budget and indicators for service quality, performance and efficiency, and initiating additional action where appropriate.

(g) Ensuring that clear operational policies are in place and that these are complied with.

(h) Agreeing the basis for apportioning cost between the two Authorities and the amount to be apportioned.

(i) Ensuring that effective risk management arrangements are in place, that the Functions and Services are subject to adequate and independent audit and that any audit recommendations are acted upon.

(j) Approving business cases for proposed changes and overseeing the progress of subsequent work.

(k) Ensuring that there are robust plans for the disaggregation of services as and when required and that there is a smooth transition to separate or new arrangements.

(l) Resolving issues that are referred to the Joint Executive Committee by the Joint Officer Board or relevant Chief Officers of the Service.

(m) Delegating functions of the Joint Executive Committee to officers of either Authority under s.101 Local Government Act 1972.

(n) Agreeing arrangements to place staff employed by one of the authorities at the disposal of the other authority to carry out the functions of the Joint Executive Committee as described above under s.113 Local Government Act 1972.

(o) Take decisions in relation to the commissioning and procurement of services either hosted or under a lead authority arrangement from a third party.

(p) Responding to reports or recommendations from the Joint Overview and Scrutiny Committee or one or both of the Authorities.

(q) Providing an Annual Report to each of the two Authorities on the performance, finances and proposed service improvements including any arrangements for disaggregation.

LEP functions:

Pursuant to Section 101(5) of the Local Government Act 1972, and to their powers under section 9EB of the Local Government Act 2000 and Local Authorities (Arrangements for the Discharge of Functions) (Englannd Regulations 2012, the Council's Executives have charged the Economic Growth Joint Executive Committee with responsibility for the exercise of:

(a) Setting the strategic direction and oversight of the Cumbria-wide core economic functions formerly delivered by Cumbria LEP namely business representation strategic economic planning and responsibility for the delivery of government funding where directed.

(b) Approving the Cumbria Economic Growth Strategy and other related documents strategies and plans which meets Cumbria's needs and government's expectations for local economic planning.

(c) Providing a voice for Cumbria on strategically important economic issues and influence and aligning government public and private investment in order to boost inclusive economic growth across Cumbria.

(d) Agreeing the budget and undertaking oversight and monitoring the budget for the Cumbria wide economic growth functions the management of which is the responsibility of the accountable body.

(e) Ongoing oversight monitoring and review of the Cumbria wide economic programmes grants assets functions and programmes transferred from the LEP and oversight of any new Cumbria wide funding programmes or grants as directed by Government or agreed by the Joint Executive Committee.

(f) Agreeing the allocation of revenue and capital spend previously under the control of the Cumbria LEP Board and relating to the delivery of the live and legacy LEP Programmes.

(g) The Economic Growth Joint Executive Committee may determine as appropriate to jointly fund or augment ongoing work or any future initiatives, subject to approval from the constituent authorities.

(h) Reviewing the annual report on the activities relating to strategic economic planning and delivery.

(i) Receiving a quarterly report from the Section 151 Officer of the accountable body on the management of associated funding, confirmation of continued value for money/best value represented, and annually the financial accounts and assurance information required by Government.

(j) Agreeing and keeping under review the assurance framework to deliver Cumbria wide economic growth functions, including any sub boards or advisory groups.

(k) Through an open and transparent process appointing the Members, Chair and Vice Chair of the Cumbria Economic Growth Board and agreeing the Terms of Reference.

(l) Ensuring the Economic Growth Board members appointed represent a wide range of business, sectors, types, sizes, and locations representing the economic strengths, sectors and priorities for Cumbria.

(m) Oversight of the stronger Local Resilience Framework Pilot Programme.

13.2 Joint Overview and Scrutiny Committee

A Joint Overview & Scrutiny Committee has been established under the above referenced Inter-Authority Agreement to provide oversight support and to scrutinise the work of the Joint Executive Committee for the oversight and management of the shared Functions and Services, including the development and delivery Service Strategies and, where applicable, the implementation of disaggregation plans.

13.2.1 Joint Overview and Scrutiny Committee - Composition

(a) Each Authority shall appoint 6 Members (being non-executive members) on a politically proportionate basis as its nominated members of the Joint Overview and Scrutiny Committee. The Members appointed will have full voting rights. The Committee may co-opt non-voting members to assist it in its functions.

(b) Each Authority may nominate one or more substitute Members to attend any meeting in place of an appointed Member (who shall also be non-executive members) subject to notification being given to the Monitoring Officer via the relevant Democratic Services before the start of the meeting. The Member appointed as a substitute shall have full voting rights.

(c) Each member of the Joint Overview and Scrutiny Committee shall comply with the Code of Conduct of their Authority when acting as a member of the Joint Overview and Scrutiny Committee.

(d) Each member of the Joint Overview and Scrutiny Committee shall serve on the Committee for as long as they are appointed to the Joint Overview and Scrutiny by the relevant Authority.

(e) Meetings of the Joint Overview and Scrutiny Committee shall be carried out on a rotational basis in alternate Authority areas.

(f) A meeting of the Joint Overview and Scrutiny will require a quorum of at least **[two]** members from each Authority.

(g) The Chair shall be appointed by the Joint Overview and Scrutiny Committee at its first meeting of the municipal year and that Chair shall be a member from the Authority other than the Authority providing the Chair of the Joint Executive Committee. The term of office and rotation of the Authority from which the Chair is appointed will rotate in synchronisation with the rotation and appointment of the Chair of the Joint Executive Committee.

(h) The Vice- Chair shall be appointed by the Joint Overview and Scrutiny Committee from a nominated member of the other Authority from that which the Chair is appointed.

(i) Meetings will be governed by the Access to Information Rules for each Authority, including public speaking and questions, and where they might differ will be those of the Authority of the Chair unless otherwise agreed between the Monitoring Officers of the two Authorities as to which of the two sets of Rules will be applied.

(j) The Joint Overview and Scrutiny Committee shall normally meet once every two months (bi-monthly) unless otherwise determined by the Joint Overview and Scrutiny.

(k) The Authority providing the Chair shall also provide the host arrangements for Democratic Services and for the Monitoring Officer to act as proper officer to the Joint Overview and Scrutiny. The relevant Democratic Services will send out the agenda, record minutes and arrange for the sign off of minutes in accordance with the procedure rules for the relevant Authority.

(l) The scrutiny officer function shall be a shared function between the Authorities but which shall, where required, be led by the scrutiny officer of the Authority providing the Chair.

(m) The **Call-In** mechanism will be affected by a request of any 5 members of either Authority sent to the monitoring officer of either authority and containing details of the decision requested to be subject to call-in and the reasoning why. The process will then otherwise follow the call-in criteria, procedure and meeting requirements in respect of any subsequent meeting to be held of the Joint Overview and Scrutiny Committee in accordance with the Authorities' Overview and Scrutiny Procedure Rules. Where the Procedure Rules might differ, those applied will be the Overview and Scrutiny Procedure Rules of the Authority of the Chair unless otherwise agreed between the Monitoring Officers.

13.2.2 **Joint Overview and Scrutiny Committee - Terms of reference**

The Joint Overview and Scrutiny Committee is established under s101 and s 102 Local Government Act 1972 and to conduct the Authorities' functions under sections 9F and 9FA of the Local Government Act 2000 in respect of:

(a) those functions exercised by the Joint Executive Committee

(b) the shared Functions and Services for which the Joint Executive Committee is responsible

(c) those decisions taken by the Joint Executive Committee, including those as delegated to an officer and those prospective decisions set out on the Forward Plan of decisions published in respect of the Joint Executive Committee

(d) the 'call-in' function relating to these responsibilities, which shall be in the place of those call-in functions that might otherwise be exercised by the individual Authorities

13.2.3 **Joint Overview and Scrutiny Committee - Approach**

In fulfilling these functions the Joint Overview and Scrutiny Committee will seek to:

(a) Develop a forward work programme of activities

(b) Review or scrutinise decisions made, or other action taken by the Joint Executive Committee

(c) Seek reassurance and consider whether the Functions and Services are operating in accordance with the Service Strategies, including the budgets and any implementation plans for disaggregation and continuing service provision

(d) Identification of barriers to progress, best practice and possible improvements.

(e) Holding the Joint Executive Committee to account by providing critical challenge to ensure that it provides the high-level strategic direction for the implementation of the Service Strategies.

13.3 **Cumbria Police, Fire and Crime Panel**

A Joint Police, Fire and Crime Panel as required by the Police Reform and Social Responsibility Act 2011 has been established as a joint committee under sections 101 and 102 of the Local Government Act 1972 to provide support and to scrutinise the work of the Police and Crime Commissioner and Cumbria Commissioner Fire and Rescue Authority (t**he Commissioner**).

13.3.1 Joint Police, Fire and Crime Panel – Approach

(a) The authorities comprising the Police, Fire and Crime Panel are Cumberland Council and Westmorland and Furness Council.

(b) The authorities shall agree a Host Authority for the Secretariat for the Panel, which shall provide democratic support, Monitoring Officer support and such scrutiny, legal, financial, administrative and other support as is reasonably required to enable the Panel to undertake its functions within the resources agreed by the Panel.

(c) Westmorland and Furness Council shall act as the initial Host Authority until such time as either:

(i) The Panel resolves at its annual meeting (held in July of each year) that another Authority should carry out this function, provided that such other Authority agrees. In which case, the function will be transferred twelve months after the Panel decision unless a shorter period is agreed between the existing Host Authority and the new Host Authority; or

(ii) The Host Authority serves notice that it no longer wishes to be the Host Authority and this function is transferred to another Authority in which case, a twelve month notice period will apply, unless a shorter period is agreed between the existing Host Authority the new Host Authority.

(d) The Host Authority will be responsible for ensuring that agendas, summons and papers are sent out that comply with the requirements of the Local Government Act 1972. The notice of meeting and summons will be signed by the Proper Officer of the Host Authority.

(e) Meetings will be governed by the Access to Information Rules for the Host Authority. Public reports, agendas and minutes will be published on the dedicated webpage provided by the Host Authority, to which other authorities are invited to provide a link.

(f) Members are under an obligation not to disclose any confidential or exempt information that they obtain as a member of the Panel when it has been made clear to them that the information is not in the public domain.

(g) Reports to the Panel must make reference to statutory or legal provisions to which the Panel must have regard.

(h) Where, in the view of the Host Authority's Monitoring Officer, a decision within the Panel's remit is sufficiently urgent that it cannot wait for the next meeting of the Panel and it is not in the public interest that the matter should be delayed, then the Host Authority's Chief Executive Officer may decide the matter in consultation with Chairman of the Panel. The action taken will be reported to the next meeting of the Panel. This paragraph does not empower the Chief Executive to take any decision

on a matter which is reserved by law to the Panel. All urgent decisions will be reported, in writing, to the next Panel meeting.

13.3.2 Joint Police, Fire and Crime Panel - Composition

(a) The Panel shall comprise 10 councillors and 2 independent, co-opted members.

(b) Each authority shall appoint 5 Councillors. No substitutes are permitted.

(c) When appointing councillors, each authority shall have regard to:

(i) The 'balanced objective requirement' in its annual appointment process, namely the need to represent all parts of the police force and fire and rescue service area; the need to represent the political makeup of the authorities taken together; and the need to have the skills, knowledge and experience necessary to enable the Panel to discharge its functions effectively, and

(ii) The Fire and Rescue expertise objective namely the objective that members of the Panel (when taken together) have the skills, knowledge and experience necessary for the Panel to effectively discharge its functions in relation to the fire and rescue authority.

(d) Once each authority has appointed councillors to the Panel, the Monitoring Officer of the Host Authority will examine the political makeup of the Panel against the proportionality criteria specified in the Police and Social Responsibility Act and associated guidance. If as a result of this review the Monitoring Officer determines that one or more seats should be allocated to a non-aligned councillor then the Host Authority shall write to all of the non-aligned councillors seeking expressions of interest in serving on the Panel. Once these nominations have been received the Independent Persons will then select the candidate(s). The successful candidate will then be officially nominated to the Panel through their own authority.

(e) Each member of the panel shall comply with the Code of Conduct for their Authority when acting as a member of the panel. Co-opted members will be bound by the Code of Conduct of the Host Authority when acting as a member of the panel.

(f) In the event that an Authority does not appoint a Member in accordance with these requirements, the Secretary of State will appoint a Member from the Authority to the Panel in accordance with the provisions in the Act.

(g) Validity of the proceedings of the Panel shall not be affected by either a vacancy in the membership of the Panel or by a defect in appointment.

(h) Membership of the Panel ceases if a member ceases to be a Councillor of the appointing local authority.

(i) An Authority may decide in accordance with its procedures to remove an appointed councillor from the Panel at any time and upon doing so shall give written notice to the host authority of the change in its member.

(j) A Councillor may resign from the Panel at any time by giving notice to the appointing authority who will inform the host authority.

(k) Where a Panel Member fails to attend meetings of the Panel over a six month period then the host authority shall recommend to the relevant Authority that due consideration is given to removing the member from the appointment to the Panel and the appointment of a replacement member from that Authority.

(l) In the event that any Member resigns from the Panel, or is removed from the Panel by his or her Authority, the Authority shall immediately take steps to nominate and

appoint an alternative Member to the Panel, applying the considerations given above.

(m) The two independent members will be co-opted to the Panel, with no provision for substitution. Their term of office shall be 4 years and no co-opted member shall serve more than 2 full terms. After this time the positions will be re-advertised.

(n) A co-opted member may resign from the Panel by, giving at least three months written notice to the host authority. In exceptional circumstances the Panel may agree to a shorter notice period.

(o) If an independent co-opted member ceases to be a member through removal, resignation or some other means, the Panel will seek a replacement member as soon as possible through the process as described in these arrangements. The new appointment will be for the remainder of the term.

(p) The following shall be disqualified from being appointed and from being a co-opted member:

(i) the Commissioner for the police force and fire and rescue area;

(ii) a member of staff of the Commissioner's Office for the area;

(iii) a member of the civilian staff of the Police Force for the area;

(iv) a Member of Parliament;

(v) a Member of the National Assembly for Wales;

(vi) a Member of the Scottish Parliament;

(vii) a Member of the European Parliament;

(viii) a member of the uniformed Police Force for Cumbria;

(ix) a member of one of the 2 local authorities in Cumbria;

(x) a member of staff of the Cumbria Fire and Rescue Authority.

(q) The appointments of co-opted Members shall be undertaken in accordance with the following principles:

(i) Appointments shall be on merit of candidates whose skills, experience and qualities are considered best to ensure the effective functioning of the Panel;

(ii) The selection process must be fair, objective, impartial and consistently applied to all candidates who will be assessed against the same pre - determined criteria;

(iii) The selection process will be conducted transparently with information about the requirements for the appointment and the process being publicly advertised; and

(iv) The selection process will endeavour to encourage applications from candidates which reflect the breadth of communities in Cumbria and will welcome applications from all eligible people irrespective of gender, ethnic origin, religious belief, sexual orientation, disability, age or other factor.

13.3.3 Joint Police, Fire and Crime Panel – Terms of Reference

(a) To hold the elected Commissioner to account and will seek to work with them in a constructive manner with a view to supporting the effective exercise of their functions within Cumbria.

(b) To review and make reports or recommendations on the draft Police and Crime Plan, draft Fire and Rescue Plan or draft variation, given to the Panel by the Commissioner which the Commissioner must take into account, and to publish the reports or recommendations.

(c) To hold a public confirmation hearing and review, make reports and recommendations (as necessary) in respect of proposed senior appointments (Chief Executive, Chief Finance Officers and Deputy Police, Fire and Crime Commissioner) made by the Commissioner and to publish the reports or recommendations.

(d) To hold a public confirmation meeting to review and make reports on the proposed appointment of the Chief Constable and Chief Fire Officer including, if necessary, the use of the power of veto by a two thirds majority of the current membership of the Panel and to publish the reports.

(e) Upon receiving written notification from the Commissioner of his/her intention to call upon the Chief Constable or Chief Fire Officer to retire or resign the Panel will make recommendations to the Commissioner as to whether or not such resignation or retirement should be called for.

(f) To consult the Chief Inspector of Constabulary where it is proposed to dismiss the Chief Constable or the Chief Fire and Rescue Inspector for England where it is proposed to dismiss the Chief Fire Officer and hold a private meeting of the Panel in which the Commissioner and the Officer concerned are both entitled to attend for the purpose of making representations about the requirement to resign or retire and to publish the recommendations made to the Commissioner.

(g) To review and make reports and recommendations (as necessary) on the proposed precept for both Police and Fire and Rescue including, if necessary, the use of the power of veto by a two thirds majority of the current membership of the Panel and to publish the reports or recommendations.

(h) To review or scrutinise decisions or proposals made, or other action taken, by the Commissioner in connection with the discharge of the Commissioner's functions, which may be in the form of reports or recommendations to the Commissioner which must be published.

(i) To fulfil functions in relation to complaints about the Commissioner on conduct matters, in accordance with the responsibilities accorded to the panel by the Police Reform and Social Responsibility Act 2011.

(j) To appoint an Acting Commissioner if necessary, where the Commissioner is incapacitated, resigns or is disqualified or suspended.

(k) To suspend the Commissioner if it appears to the Panel that the Commissioner has been charged in the United Kingdom, the Channel Islands or Isle of Man with an offence that carries a maximum term of imprisonment exceeding two years.

(l) To delegate, to the extent that it wishes to do so and so far as permitted by law, areas of work to a sub-committee or working group

(m) To require the Commissioner and his or her staff to attend meetings to give evidence in accordance with statute when deemed necessary for the Panel to discharge its functions

(n) Following a requirement made by the Panel for the Commissioner to attend a meeting, it may request the attendance of the Chief Constable or Chief Fire Officer at that meeting to answer questions which the Panel feels are necessary for the discharge of its functions.

(o) To require the Commissioner to respond in writing within a specific timescale to any report or recommendation made by the Panel to the Commissioner.

(p) To undertake any other such functions as are conferred upon the Panel by the Police Reform and Social Responsibility Act 2011 and Police and Crime Act 2017 and any subsequent regulations made under the Acts.

13.3.4 Joint Police, Fire and Crime Panel – Procedure

(a) The Panel shall determine its Rules of Procedure (in accordance with the statutory requirements and regulations) which shall include arrangements in relation to:

(i) the appointment, resignation and removal of the Chairman and Vice-Chairman;

(ii) the appointment of sub-committees;

(iii) the appointment of Task Groups;

(iv) the making of decisions;

(v) the circulation of information;

(vi) the frequency, timing and place of meetings;

(vii) public participation; and

(viii) minority reporting.

13.4 The Council has made the following arrangements with another local authority for the discharge of functions by that other local authority or the executive of the other local authority in accordance with s.101(1)(b) of the Local Government Act 1972, or, as the case may be, Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000:

13.4.1 Border to Coast Pension Partnership Joint Committee of 11 local authorities

13.4.2 The Parking and Traffic Regulations Outside London Joint Committee (Adjudication Committee)

13.4.3 The Lake District National Park Authority

13.4.4 The Yorkshire Dales National Park Authority

13.4.5 The North Western Inshore Sea Fisheries and Conservation Authority established under the Marine and Coastal Access Act 2009

13.4.6 The Solway Firth Partnership

14 LOCALITY BOARDS

Introduction

14.1 In order to promote close working with our communities there are three Locality Boards, which have been established on the local government boundaries of the predecessor Borough and District Councils and contain all Councillors whose wards fall within those localities.

14.2 The Locality Boards are established as an 'area committee' under section 9E of the Local Government Act 2000 and may be given substantial powers and responsibilities by the Leader and Cabinet.

14.3 Where a Locality Board exercises powers granted to it by the Cabinet it must do so within the parameters of the policies set by the Council and Cabinet and as set out in the terms of reference, including the ability to consider and report to Cabinet and Council on any matter affecting their area. Locality Boards operate within Council policy and decisions must be consistent with the Budget and Policy framework and any Service specific policies.

Composition

14.4 The Council will appoint Locality Boards as set out in the first row of the table below. The Wards to be included within the area administered by each Locality Board are shown in the rows beneath.

Furness Locality Board	**Eden Locality Board**	**South Lakeland Locality Board**
W&FC wards	***W&FC wards***	***W&FC wards***
Walney Island	Hesket and Lazonby	Kendal Strickland and Fell
Risedale and Roosecote	Eden and Lyvennet Vale	Kent Estuary
Ormsgill and Parkside	Penrith North	Levens and Crooklands
Old Barrow and Hindpool	Appleby and Brough	Bowness and Lyth
Dalton South	Greystoke and Ullswater	Grange and Cartmel
Dalton North	Kirkby Stephen and Tebay	Kendal Nether
Hawcoat and Newbarns	Penrith South	Ulverston
	Alston and Fellside	Upper Kent
	Eamont and Shap	Burton and Holme
		Kendal Castle
		Sedbergh and Kirkby Lonsdale
		Windermere and Ambleside
		Coniston and Hawkshead
		Kendal South
		Kendal Highgate
		High Furness
		Low Furness

14.5 All Members of the Council will be a member of the Locality Board that includes their own Ward. A member of the Cabinet may serve on a Locality Board, but will not be eligible to be appointed as the Chair.

14.6 The Locality Board elects its Chair and Vice-Chair annually at the first meeting following the Annual Meeting of the Council. The Chair will have a second and casting vote.

Quorum and Procedures

14.7 A Locality Board will comply with the Access to Information Rules in Part 3 of this Constitution and those standing orders contained in the Council Procedure Rules which are relevant to its business. Agendas and Notices for Locality Board meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

14.8 The quorum for meetings of a Locality Board will be one third of the membership.

14.9 A Locality Board may co-opt up to five (5) other persons to assist in the discharge of the Board's role whose term of office shall be until the next Annual Meeting of the Council, whereupon they may stand down or be co-opted for the following period. Co-opted members of the Panel may participate in the debate in the same way as Councillors, but will have no voting rights and will not count towards a quorum.

14.10 Each Locality Board will hold a minimum of 4 meetings a year

14.11 Extraordinary meetings can be called by the Proper Officer in consultation with the Leader of the Council following a request of Chair, giving due notice as required by the Access to Information Procedure Rules. At an extraordinary meeting of a Locality Board the only business to be transacted will be that included within the summons to attend the meeting.

Terms of Reference

14.12 A Locality Board will undertake the following roles to:

14.12.1 General

(a) Allocate funding grants within the terms of a Community Grants Scheme to be developed by the Cabinet.

(b) Allocate discretionary budgets, make decisions and develop activities in supporting locality working, projects and activities within the terms of any scheme that may be developed by the Cabinet.

(c) Nominate to membership of Outside Bodies within the locality, including to Local Authority School Governors, as may be referred by Council or the Cabinet.

(d) Undertake responsibility for such other functions a may be referred to it by the Leader, the Cabinet or committee of the Cabinet or the Council.

14.12.2 Highways and Transport

(a) To agree and keep under review the implementation of a one year programme of Locality Highways schemes for the area. Locality highways schemes could include street lighting, drainage clearing, traffic calming schemes, sign cleaning, white line painting.

(b) To agree and keep under review the implementation of a one year programme of Local Sustainable Transport schemes for the area. Local Sustainable transport schemes could include footpaths and rights of way, cycling and walking improvements, school streets, community transport support.

(c) To advise and make recommendations to a grants panel for community bus grant applications.

(d) To consider and determine traffic regulation orders, speed limit orders, experimental orders, parking places orders and revocation orders, with the exception of those that require urgent determination or are temporary in nature, in all cases, the relevant local member will have been notified of the matter.

(e) To make proposals to the Cabinet for the inclusion of highways and transport schemes in the rolling three year strategic investment programme (revenue and capital) and one year delivery plan,

(f) Commission technical assessments to ascertain the need for school crossing patrols in the Locality Board area, and establish or disestablish patrols in accordance with Council Policy.

(g) Make representations to the relevant decision maker on highways and transport matters which fall entirely within the Locality Board area, including any funding bids.

14.12.3 **Community**

(a) Undertake a community leadership role in bringing together different interest groups from the public, private and voluntary sectors to work in partnership to meet the Council's corporate strategic and local objectives.

(b) Establish and maintain relationships with Town and Parish Councils and those outside bodies/voluntary organisations operating specifically within the locality.

(c) Consider the policies and actions of the Cabinet as to their appropriateness to the needs and aspirations of local communities.

(d) Receive petitions, presentations and questions from members of the public, groups and outside bodies on matters relating to their locality.

(e) Act as a forum for discussion on matters of local interest and in particular to elicit/hear the views of local bodies and organisations.

(f) Make arrangements for the provision of information about local services and other matters to people in the locality.

(g) Provide local input into centrally determined specifications for all services.

Delegations

14.13 A Locality Board must meet as a committee of the whole number of its members, subject to the quorum above and in accordance with the Access to Information Procedure Rules, in order to make a lawful decision. A Locality Board is not, therefore, permitted to establish any form of sub-committee or delegate decision making to any of its number.

14.14 Working Groups or task and finish groups of the membership of a Locality Board may be established at any one time in order to consider issues and make recommendations. These are normally limited to 4 at any one time due to capacity of Councillors and resources.

14.15 A Locality Board may arrange for the discharge of any of its functions to an officer of the authority.

Methodology

14.16 There is no intention to be prescriptive about the management of meetings, but rather to let local Members run their business in ways that best reflect their local areas, provided that decisions are consistent with the Council's Budget and Policy framework and service specific policies. However, all Locality Boards will adopt the following procedures:

14.16.1 Members of the public and Town and Parish Councillors may request to speak at a meeting and must give advance notice of their intention to do so by contacting the Chief Legal and Monitoring Officer at least 3 hours before the start of the meeting. The option to speak will be at the discretion of the Chair. In normal circumstances there would be a maximum time allowed of five (5) minutes. This action would fall within the agenda item of Public Participation.

14.16.2 Other Councillors of the Authority are able to attend other Locality Board meetings and may speak, but not vote, subject to having notified the Chair of their wish to do so. Such notification to be given to the Chief Legal & Monitoring Officer at least 3 hours before the start of the meeting.

14.16.3 The Chair may invite advisors to meetings as and when required to assist in discussion. They may speak as directed by the Chair but not vote.

14.17 Twice a year a meeting should be held between the Leader, the relevant Cabinet Member Portfolio holder and the Chairs and Vice-Chairs of the Locality Boards.

14.18 A Locality Board may refer any relevant matter to Cabinet and the Chair or spokesperson may address the Cabinet meeting on that matter.

15 PENSIONS COMMITTEE

15.1 The Pension Committee is a committee constituted under Section 101 of the Local Government Act 1972, the principal aim is to carry out the functions of Westmorland and Furness Council as the Administering Authority for the Cumbria Local Government Pension Scheme ("the Cumbria Pension Fund" or "the Fund") in accordance with the requirements of the Local Government Pension Scheme and any other relevant legislation.

15.2 In its role as the administering authority, Westmorland and Furness Council owes fiduciary duties to the employers and members of the Cumbria Pension Fund and must not compromise this with its own particular interests. Consequently this fiduciary duty is a responsibility of the Pension Committee, and its members must not compromise this with their own individual interests. As a statutory pension scheme the Local Government Pension Scheme (LGPS) does not have assigned trustees.

Composition

15.3 The Pensions Committee will be composed of **8** Members of the Council; 3 co-opted Members of Cumberland Council; and 2 employee representatives (one appointed by GMB and one appointed by UNISON).

15.4 All members of the Committee including co-opted members shall be entitled to vote.

15.5 Equal weight will be given to each member's vote with the Chair having the casting vote should the need arise.

15.6 The Chair and the Vice Chair will be appointed annually by the Council.

15.7 The Chair of the Committee will not be a Cabinet Member.

Substitutes

15.8 Each political group represented on the Pensions Committee may appoint reserve Councillors.

15.9 In respect of Cumberland Council, each political group represented on the Pensions Committee may appoint reserve Councillors in accordance with the provisions of Cumberland's Constitution

Quorum

15.10 The quorum for meetings of the Pensions Committee shall be a third of the membership.

Other matters relating to the operating structure of the Pensions Committee

15.11 The Committee will meet as a minimum quarterly.

15.12 The Committee is required to ensure all members have access to appropriate professional advice and representation prior to making any decisions concerning the general management of the Cumbria Pension Fund.

15.12.1 To assist in the above the Section 151 Officer will be required to appoint industry specific advisors to enable the Committee to fulfil its obligations e.g. fund actuary; tax specialists; regulated investment consultants when required.

15.12.2 The Committee will also appoint two independent advisors, their role being to assist and support members in their understanding and challenge of either service providers or officers of the Council.

Competency

15.13 All members of the Pension Committee (including nominated reserves) must meet the requisite knowledge and skills requirements and attend training events as required.

Functions

The functions of the Committee are:

15.14 To ensure that the Fund complies with the Local Government Pension Scheme Regulations and all other legislation that governs the administration of the Fund.

15.15 To set the investment objectives and policy and the strategic asset allocation in the light of the Fund's liabilities.

15.16 To annually review (as a minimum) and approve any new statutory policy statements and/or amendments to the existing statutory policy statements as required by Local Government Pension Scheme Regulations, drawing on appropriate professional advice.

15.17 To assure adherence to the principles set out in relevant Statutory Guidance and Codes of Practice issued by the Secretary of State and the Pensions Regulator and undertake it's duties in compliance with the obligations imposed on it.

15.18 To ensure robust risk management arrangements are in place.

15.19 To ensure appropriate arrangements for the administration of benefits are in place, including overseeing administration performance and employer issues.

15.20 The selection, appointment and dismissal of an investment pooling operator to manage assets in accordance with the Fund's Investment Strategy.

15.21 To monitor the performance and effectiveness of the investment pooling operator to ensure:

15.21.1 it is providing an effective means of delivering the Fund's investment strategy (e.g. types of assets and style of investment management); and

15.21.2 it is meeting the objectives that have been set.

15.22 Appointing, dismissing and assessing the performance of investment managers in accordance with the Fund's Investment Strategy, where direct investments are maintained.

15.23 To consider recommendations from the Cumbria Local Pensions Board, the Pensions Investment Sub Group and the Border to Coast Pensions Partnership Ltd (BCPP) Joint Committee.

15.24 To approve the formal triennial actuarial valuation of the Cumbria Pension Fund, with due consideration being given to the desirability of maintaining as nearly constant a primary contribution rate as possible and the requirement to secure the solvency of the Cumbria Pension Fund.

15.25 Prior to the commencement of the financial year to approve an annual business plan and associated budget for that year to cover all matters of expenditure to be charged to the Cumbria Pension Fund. To review performance against this periodically during the year.

15.26 To approve and annually review the Cumbria Pension Fund's training policy to ensure those charged with the management of the Cumbria Pension Fund are appropriately experienced and qualified.

15.27 To update the Council periodically on the governance, risk monitoring and performance of the Cumbria Pension Fund following meetings of the Committee.

15.28 To submit the Cumbria Pension Fund Statement of Accounts to the Audit Committee and to approve the Cumbria Pension Fund Annual Report.

15.29 To receive and where necessary instruct corrective action, in response to both internal and external auditor reports.

Pensions Investment Sub-Group (ISG)

15.30 The Pensions Committee shall establish a Pensions Investment Sub-Group (ISG). The working group will have an advisory role; its purpose is to assist the Committee by:

15.30.1 Carrying out investment asset class monitoring; i.e. monitoring investment performance and the progress of the implementation of the Cumbria Pension Fund's Investment Strategy.

15.30.2 Providing an update report to Pensions Committee outlining investment performance during the preceding period and escalating any matters of concern or for further consideration to the Pensions Committee.

15.30.3 Where appropriate giving initial consideration to investment opportunities prior to their being considered by Pensions Committee.

15.31 The Investment Sub-Group will be comprised of 4 elected members of the Pensions Committee (to be nominated by the Pensions Committee, taking into account knowledge, understanding and capacity); the two Independent Advisors to the Pensions Committee; and the Chief Finance Officer (Section 151 Officer) (or deputy in their absence).

15.32 The Chair and Vice Chair will be selected by the Pensions Committee at the start of each electoral term.

15.33 The ISG will meet at least quarterly and will report to the Pensions Committee on a quarterly basis.

16 CUMBRIA LOCAL PENSION BOARD

16.1 The Local Government Pension Scheme (Amendment) (Governance) Regulations 2015 requires that the Council, as administering authority of Cumbria Pension Fund, establishes a local pension board. The role of the Board is to assist the Administering Authority in ensuring the effective and efficient governance and administration of the Local Government Pension Scheme including, securing compliance with LGPS Regulations, other legislation and the requirements of the Pensions Regulator.

Composition

16.2 The membership of the Cumbria Local Pension Board will comprise **3** scheme member representatives; **3** scheme employer representatives; and **1** independent member (non-voting) who shall be appointed as Chair of the Pension Board.

16.2.1 The three employer representatives will be allocated 1 to the Council; 1 to Cumberland Council; and 1 for all other employers in the Cumbria Pension Fund. The three scheme member representatives will be selected to ensure all membership groups within the Cumbria Pension Fund are considered.

16.3 All Employer and Scheme Member Representatives of the Local Pension Board will be entitled to vote.

16.4 The Vice Chair of the Board will be elected annually by the three scheme member representatives and the three scheme employer representatives.

Substitutes

16.5 Named reserves are permitted and will be sought for each of the scheme member and scheme employer representatives. The relevant knowledge and capacity requirements also apply to reserves.

Quorum

16.6 The Pensions Board shall have a quorum of 3 which will require the Independent Chair (or the Vice Chair in the absence of the Independent Chair), 1 employer representative and 1 scheme member representative to be present.

Frequency of meetings

16.7 The Board will meet as a minimum quarterly. Meetings will be held during normal working hours and as a general principle, meetings will be open to the public.

Competency

16.8 The Administering Authority must ensure that each person appointed to the Local Pension Board has the relevant knowledge and the capacity to represent the employers or members (as appropriate) of the Pensions Fund. To ensure compliance, a general level of attendance at meetings and training events is required.

Functions of the Cumbria Local Pension Board

16.9 The Cumbria Local Pension Board is responsible for assisting the Administering Authority of the Cumbria Local Government Pension Scheme:

16.9.1 to secure compliance with:

(a) The Local Government Pension Scheme Regulations 2013 (as amended from time to time);

(b) Other legislation relating to the governance and administration of the Local Government Pension Scheme ('LGPS'); and

(c) The requirements imposed by the Pensions Regulator in relation to the LGPS.

And to

16.9.2 Ensure the effective and efficient governance and administration of the LGPS.

16.10 The Board must have a policy and framework to meet the knowledge and understanding requirements of section 248A of the Pensions Act 2004.

16.11 In its role in assisting the Administering Authority as described above, the Local Pension Board shall report at least twice yearly to the Pensions Committee on matters reviewed and suggestions for their consideration.

16.12 Where the Board is concerned that due consideration has not been given to matters of non-compliance the Board may submit a report for consideration by the Audit Committee as the body designated by the Administering Authority with the capacity to investigate such matters on its behalf.

Part 2 – Section 6: Officer Scheme of Delegation

This part of the Constitution sets out the ways in which the officers of the Council can make decisions and which decisions they have power to make.

It is separated into four parts:

Part 1 – Introduction

Part 2 – General Delegations

Part 3 – Delegations to Chief Executive and Chief Officers

Part 4 – Statutory Officer and Proper Officer Appointments

Part 5 – Delegations from the Planning Committee to the Head of Development Management

1 INTRODUCTION TO DELEGATION

1.1 "Officers" is the term used to refer to the people employed, retained or appointed by the Council to advise and support Councillors and implement their decisions. The term "officers" in this Constitution includes all the people who operate in this capacity including contractors, consultants and agency staff.

1.2 The Council operates a "cascade" principle of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected. This means that the vast majority of the Council's decisions and actions will fall into the category of operational day to day decisions taken by its officers.

1.3 In order to ensure the smooth functioning of the Council and the efficient delivery of services, Council and the Cabinet have delegated to officers all of the powers that they need to perform their roles.

1.4 Certain officers have specific legal duties to ensure that the Council acts within the law, uses its resources wisely and exercises its powers properly. These officers are known as "Statutory" or "Proper" Officers and some have specific legal titles in addition to their job titles.

1.5 The way the Council structures its services and its officer arrangements changes from time to time to reflect changes in service delivery and best practice. The current arrangements include a Chief Executive/Head of Paid Service (as the most senior officer of the Council) supported by a number of Chief Officers.

1.6 See the current organisational structure of the Council, showing more detail about the roles and responsibilities of the Chief Officers and the officers supporting them to deliver all the Council's services.

General Principles Relating to Officer Delegation

1.7 For the purposes of officer delegated powers, both within this part and any other part of the Constitution, the term "Chief Officer" is as defined by Part 1, section 43(2) of the Localism Act 2011 and includes the following officers:

1.7.1 The Chief Executive (Head of Paid Service)

1.7.2 The Chief Legal Officer (Monitoring Officer)

1.7.3 The Director of Resources (Chief Finance/ s.151 Officer)

1.7.4 The Assistant Chief Executive

1.7.5 The Director of Thriving Places

1.7.6 The Director of Thriving Communities

1.7.7 The Director of Adult Social Care

1.7.8 The Director Children's Services

1.7.9 The Director of Enabler Services

1.7.10 Director of Public Health

A Deputy Chief Officer may act where delegated to do so by their Chief Officer

1.8 This scheme gives the power for the Chief Officers to take decisions in relation to all the functions in their areas of responsibility except where:

1.8.1 a matter is prohibited by law from being delegated to an officer, or

1.8.2 a matter has been specifically excluded from delegation by this scheme, by a decision of the Council, a Committee or Sub-Committee.

1.9 Chief Officers may not take decisions unless specifically provided for within the constitution or specifically delegated by Council, Cabinet, a Committee or Sub-Committee.

1.10 The cascade principle under which this scheme operates means that any officer given powers under this scheme can further delegate those powers to other officers through a Local Scheme of Authorisation (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 Authorisation are available on the Council's website and you can look at any of the schemes in detail.

1.11 All Local Schemes of Authorisation (and any changes to them) must be agreed by the relevant Chief Officer and the Monitoring Officer.

1.12 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 take back responsibility for the function and may therefore exercise the function (make the decision) despite the delegation.

1.13 In some circumstances the officer to whom a power has been delegated may consider a matter to be of such importance or sensitivity that their delegated authority should not be exercised. In these circumstances he or she may refer the matter back to the delegator for determination.

1.14 Any power delegated or cascaded under this Scheme can be exercised by the relevant Chief Officer and in all cases by the Chief Executive personally, with the exception of those statutory functions delegated exclusively to the Council's Chief Finance /Section 151 Officer or the Monitoring Officer.

1.15 The powers of this Scheme are delegated to the officers referred to by title within this Scheme of Delegation. So the delegations apply to whoever holds that post title at any time – not to the individual person. The powers are automatically transferred to any successor officer, to whom the functions are allocated following any reorganisation of the Council's management arrangements, irrespective of a change in the title/name of the officer post. Nominated Deputies are able to exercise all functions of the person delegating the functions.

1.16 Delegations relate to all provisions for the time being in force under any applicable legislation and cover functions of the Council and all powers and duties incidental to that legislation.

1.17 Any delegation must be exercised:

1.17.1 In compliance with the Budget and Policy Framework, all the Council's Procedure Rules, the Pay Policy Statement approved annually and the Officer Code of Conduct

1.17.2 In accordance with the decision-making requirements set out in the Constitution, including requirements for decision-records and access to information

1.17.3 Having identified and managed appropriate strategic and operational risks within the officer's area of responsibility

1.17.4 Within the approved Budget and Policy Framework approved by the Council (or separate approval must be sought)

1.17.5 Following any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required.

1.18 Officer decisions must be evidenced in writing using the agreed standard form, dated and signed by the officer exercising the delegated authority.

1.19 An officer, in exercising delegated powers may consult the relevant Committee Chair or Cabinet Member if they considers it appropriate to do so and shall consult other appropriate officers for professional advice including legal, financial and technical officers and shall have regard to any views and advice received.

1.20 Whenever legislation is amended or replaced by new provisions, then the relevant delegated authority in this scheme applies to those new provisions. Whenever new legislation relevant or related to the functions exercised by the Chief Officer is introduced, that officer will have the delegated authority to exercise powers or otherwise take action under that legislation until such time as the Council, the executive, a Committee or the Chief Executive decides to whom to allocate responsibility for the new legislation.

1.21 Chief Officers may appoint another officer as their deputy and such deputy shall have all the powers of the Chief Officer as set out in this Constitution. A deputy may be appointed in relation to all the areas of service delegated to the Chief Officer under this Constitution or in relation to a particular area of service only. A deputy may be appointed for a specific period of time (for example to cover the absence of a Chief Officer) or without time limitation. The appointment of a deputy shall not prevent the exercise by the Chief Officer of any delegation set out in this Constitution.

1.22 If there is any dispute or lack of clarity as to which Chief Officer has power to make decisions on specific areas of service, the Chief Executive shall have power to determine where the delegation should be exercised.

2 GENERAL DELEGATIONS

2.1 The following delegations shall apply to all Chief Officers (and to any appointed deputies).

Urgent action

2.2 To act on behalf of the Council in cases of urgency in the discharge of any function of the Council for which their Directorate or Service has responsibility, other than those functions which by law can be discharged only by the Council, the executive, or a specific Committee. A decision will be urgent where any delay would seriously prejudice the legal or financial position of the Council or the interests of the Members of the Public of the Council's area. This delegation is subject to the conditions that any urgent action:

2.2.1 shall be reported to the appropriate Committee

2.2.2 shall take account of advice of the Monitoring Officer and the Chief Finance Officer / Section 151 Officer)

2.2.3 shall be exercised in consultation with the Leader (in relation to executive functions), the Chair (in relation to Council functions), or the Chair of the appropriate Committee.

Implementation of decisions

2.3 To take all necessary actions (including the letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of Council, the Cabinet, a Committee or Sub-Committee, or an Officer.

General operational

2.4 To have overall responsibility for the operational management of the relevant area of service and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to exercise the functions for which the service is responsible.

2.5 Any Chief Officer may be appointed by the Chief Executive to deputise in their absence and when so appointed is authorised to exercise all the powers of the Chief Executive (including those of the Head of Paid Service).

Consultation

2.6 To undertake and consider the outcome of statutory and non-statutory consultations on service provision.

2.7 To respond to Government Consultations and consultations from other bodies, in consultation with the relevant Portfolio Holder and the relevant Committee Chair.

2.8 To undertake all steps required to complete Government Statistical Returns.

Finance

2.9 To manage the finance of their departments to ensure value for money and the development of budget policy options with a detailed assessment of financial implications.

2.10 To enter into contracts and incur expenditure in relation to their functional area and in accordance with the approved budget, with the exception (unless otherwise provided in this Scheme of Delegation) of certificates under the Local Government Contracts Act 1997, the Council's Accounts and Contracts and Deeds where specific provisions are made in the Council's Contracts Procedure Rules.

2.11 To determine a Pricing Strategy that articulates the level of fees or charges payable in respect of any goods or services supplied, work undertaken or the loan or use of plant, equipment or machinery.

2.12 To submit applications for grant funding that align with the Council Budget and Policy Framework, in accordance with the approvals required under the Finance Procedure Rules.

Staffing

2.13 To deal with the full range of employment and staff management issues, below Chief Officer level including but not limited to appointments, terms and conditions (other than those negotiated nationally) training, discipline, dismissal, performance, progression, promotion, shifts and working hours, grievance, grading, emoluments, expenses, allowances, sick pay, leave, equal opportunities and health and safety in accordance with approved policies and the Employment Procedure Rules.

2.14 To enter into reciprocal arrangements for the authorisation and appointment of officers to facilitate cross-border co-operation in the discharge of delegated functions with any other public sector organisation.

Land and assets

2.15 To manage land, premises, vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture appliances and uniforms necessary for the provision of services.

2.16 To administer the supply of goods and services to other public authorities and bodies under the Local Authorities (Goods and Services) Act 1970 and all other enabling legislation.

2.17 To make application for planning permission and any other necessary applications for other consents required for the development of land.

Legal authorisation and enforcement

2.18 To act as "duly authorised officers" (for the purposes of all relevant legislation) and to enforce/administer the requirements of all relevant regulatory legislation which shall (for the avoidance of doubt) include (but not be limited to) taking the following action (and all actions reasonably necessary, expedient or ancillary in order to facilitate or enable the same):

2.18.1 Applying for warrants, carrying out investigations, inspections or surveys, entering land and premises, taking samples and seizing property

2.18.2 issuing (or declining to issue) licences, certificates or certified copies of documents, approvals, permissions, consents, notices, orders, directions or requisitions for information

2.19 Only with the approval of the Monitoring Officer, to authorise the institution, defence, settlement of or participation in civil and criminal proceedings and quasi-proceedings (which for the avoidance of doubt shall include but not be limited to all court hearings, tribunal, inquiry and appeal processes), administer cautions and/or take any other action considered necessary to protect the interests of the Council. Only the Monitoring Officer, however, may seek, instruct or authorise the obtaining of any legal advice or representation by external solicitors, counsel or other legal bodies.

2.20 Where authorised in the Constitution or applicable policy, to exercise the role of authorising officer and designated person under the Regulation of Investigatory Powers Act 2000. (The Monitoring Officer is excluded from this provision as they have the formal 'reviewer' role.)

Safeguarding children and vulnerable adults

2.21 To ensure that arrangements are in place to discharge the responsibilities of the Council within their functional responsibilities in respect of the need to safeguard and promote the welfare of children and of vulnerable adults.

3 DELEGATIONS TO CHIEF EXECUTIVE AND CHIEF OFFICERS

The Chief Executive/Head of Paid Service

3.1 The Chief Executive is the most senior officer in the Council. It is their role to support the Councillors and to provide leadership for the Council.

3.2 The Chief Executive is empowered to operate all the services of the Council and, except where powers, duties and functions are reserved, to exercise all powers, duties and functions of the Council, including those delegated to other officers with the exception of those statutory functions delegated exclusively to the Council's Chief Finance / Section 151 Officer or the Monitoring Officer.

3.3 Every Council must, by law, appoint one of its officers as the Head of Paid Service. The Chief Executive is also the Council's Head of Paid Service. Their responsibility in this role is to make proposals to the Council about the manner in which the discharge of the Council's functions is co-ordinated and the numbers, grades and organisation of staff required and the proper management of those staff. The Chief Executive has power to exercise any function of the Head of Paid Service contained in any legislation and in any other Part of this Constitution.

3.4 The Chief Executive is given delegated power to undertake the following roles and responsibilities and to take the following decisions subject to the terms of this Constitution:

3.4.1 To be the Council's principal officer representative and to promote its good image and reputation

3.4.2 To lead and direct the strategic management of the Council

3.4.3 To appoint other officers as Proper Officers for the purposes of any specific Council service area or function and to maintain an up to date record showing who is appointed to act as the Proper Officer for all Council service areas and functions

3.4.4 Unless another officer is appointed as Proper Officer, to act as Proper Officer for the Council for the purposes of all Council service areas and functions

3.4.5 To discharge emergency planning and civil protection functions;

3.4.6 To take such steps (including the incurring of expenditure where necessary) as may be required in the event of any national or local emergency requiring immediate action by the Council

3.4.7 To undertake the communications, marketing and media functions of the Council with regard to policy and strategic direction.

3.4.8 To exercise any function of the Council which is not specified in the Constitution or in law as a function that must be exercised by Councillors, except the statutory functions of the Monitoring Officer.

3.4.9 To take any decision where any delay incurred in taking the decision would seriously prejudice the Council's or the public interest to the extent that it is appropriate to exercise emergency powers. This may include waiving the Council's Contracts Procedure Rules to the extent that this complies with domestic laws. In exercising this power, the Chief Executive must consult with the Leader of the Council, the Monitoring Officer and the Chief Finance Officer / Section 151 Officer or in their absence, their nominated deputies, unless the delay caused by doing so would itself be likely to result in danger to life or property. The Chief Executive will report any such decision to the next meeting of Council;

3.4.10 To allocate or re-allocate responsibility for functions in the Scheme of Delegation to Officers provided that any changes applicable for a period of more than six months must be reported to Council as a change to the Scheme of Delegation.

3.4.11 To make temporary appointments to inquorate Parish and Town Councils in accordance with Section 91 of the Local Government Act 1972 and the Procedure agreed by Full Council (20 April 2023 Minute Reference 17).

Delegations to the Monitoring Officer

3.5 The Monitoring Officer is appointed in accordance with Section 5 of the Local Government and Housing Act 1989 and has all the powers and duties of the Monitoring Officer and is responsible for supporting and advising the Council in relation to:

3.5.1 the lawfulness and fairness of the decision making of the Council;

3.5.2 the Council's compliance with its legal responsibilities and requirements, and

3.5.3 matters relating to the conduct of Councillors (including town and parish councillors).

3.6 The Monitoring Officer will provide advice to ensure that decisions are taken on proper authority, by due process, and in accordance with the Budget and Policy Framework.

3.7 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the Chief Finance / Section 151 Officer report any proposal, decision or omission considered to be unlawful or that amounts to maladministration to the Council as appropriate in accordance with Section 5 of the Local Government and Housing Act 1989

3.8 The Monitoring Officer may appoint one or more deputy Monitoring Officers, each of whom has power to exercise all the powers and duties of the Monitoring Officer during their absence, incapacity or conflict from acting or during vacancy of the role.

3.9 The Monitoring Officer has power to exercise any function of the Monitoring Officer contained in any other Part of this Constitution.

3.10 The Monitoring Officer shall have the following delegated powers and responsibilities:

3.10.1 To authorise the settlement of actual or potential claims, borehole claims or Local Government and Social Care Ombudsman cases across all functions of the Council.

3.10.2 To prosecute, defend, settle, make application, serve any notice or appear on behalf of the Council in any Court, Tribunal or hearing on any criminal, civil or other matter (including appeals).

3.10.3 To institute legal proceedings for any offences within the Council's area.

3.10.4 To lodge objections to any proposal affecting the Council's interests.

3.10.5 To determine applications for the display of the crest or logo of the Council.

3.10.6 To approve the Council's response to any investigation carried out by the Local Government Ombudsman.

3.10.7 To be a 'qualified person' for the purposes of Section 36 Freedom of Information Act 2000.

3.10.8 To take all action including the completion of agreements, the service of notices, giving of directions, obtaining or issuing orders, authorising the execution of powers of entry, and the institution and defence of legal proceedings necessary or desirable to protect and advance the interests of or discharge the roles, functions and responsibilities of the Authority.

3.10.9 To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer.

3.10.10 In accordance with the Council's approved policy, to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000 by:

(a) Ensuring compliance with all relevant legislation and with the Codes of Practice.

(b) Engagement with the Inspectors from the Investigatory Powers Commissioner's Office when they conduct their inspections, and, where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.

(c) Monitoring authorisations and conducting a quarterly review of applications, authorisations and refusals, and reviewing renewals and cancellations.

3.10.11 To make Orders for the Temporary Closure of Highways and Regulation of Traffic.

3.10.12 To attest the affixing of the Council's seal to all documents approved for sealing.

3.10.13 To authorise appropriate Officers to administer formal cautions in respect of criminal offences.

3.10.14 To determine whether a particular claim for payment under the Councillors Allowances Scheme is appropriate.

3.10.15 To authorise appropriately qualified employees or persons acting on behalf of the Council to appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority.

3.10.16 To prove debts owed to the Authority in bankruptcy and liquidation proceedings.

3.10.17 To deal with the initial stages of the disciplinary procedure for the statutory officers (Chief Executive and Chief Finance Officer), in conjunction with the appointed Chair of the Staffing Committee;

3.10.18 To deal with the initial stages of allegations under the grievance procedure against the Chief Executive or Chief Finance Officer;

3.10.19 To deal with the initial stages of allegations under the Bullying and Harassment Procedure against the Chief Executive or Chief Finance Officer.

3.10.20 To make such changes to the Council's Constitution as they deem to be necessary and which are in the Council's interests and which do not materially change any principles previously approved by the Council including, but not limited to, changes:

(a) amounting to routine revisions

(b) to provide appropriate clarity

(c) to correct typographical and other drafting errors

(d) to reflect new legislation

(e) to correct inconsistencies in drafting

(f) to reflect new officer structures and job titles, properly approved through Council processes.

3.10.21 To grant dispensations to Councillors or Co-opted members for up to four years under Section 33 of the Localism Act 2011, to allow them, where they have a disclosable pecuniary interest in a matter to be considered at a meeting of the Council, or any of its committees or sub-committees, or the Cabinet or any committee or sub-committee of the Cabinet to participate in any discussion of the matter in which they have the disclosable pecuniary interest at the meeting or to participate in any vote, or further vote, taken on the matter at the meeting; in any of the following circumstances:

(a) if it is considered that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;

(b) if it is considered that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;

(c) if it is considered that granting the dispensation is in the interests of persons living in the authority's area; or

(d) if it is considered that it is otherwise appropriate to grant a dispensation.

3.10.22 The Monitoring Officer has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by Councillors, implementing decisions and undertaking efficient management of the services, contracts and staff for which they are responsible in the following functional areas:

(a) Legal and Democratic Services including Member Development

(b) Election Services;

(c) Coroners Services;

(d) Information Governance & Records Management;

(e) Any other services allocated or re-allocated to the Monitoring Officer by the Chief Executive;

(f) As Lead Officer for the Armed Forces on behalf of the Council;

(g) Management of the Coroner's Agreement

The Director of Resources (Chief Finance Officer / Section 151 Officer)

3.11 The Director of Resources (Chief Finance Officer) is appointed in accordance with section 151 of the Local Government Act 1972 as:

3.11.1 The financial adviser to the Council, Committees and Officers

3.11.2 The Authority's 'responsible financial officer', and

3.11.3 Responsible for the proper administration of the Council's financial affairs as specified in, and undertakes the duties required by, section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government and Housing Act 1989, the Local Government Act 2003, and all other relevant legislation.

3.12 "Proper Administration" is not defined but shall also include responsibilities for compliance with the statutory requirements for accounting and internal audit.

3.13 The Chief Finance Officer / Section 151 Officer shall have the following delegated powers and responsibilities:

3.13.1 To carry out the functions and responsibilities which are detailed in the Finance Procedure Rules.

3.13.2 To secure effective treasury management, including taking all action necessary in relation to all debts, payment of accounts, loans (including guarantees and indemnities), grants, advances, investments, financing and banking generally.

3.13.3 To take all action necessary to ensure the safeguarding of assets by maintaining and administering appropriate insurance and approving requests to post-pone legal charges.

3.13.4 To take all action necessary to facilitate debt recovery and enforcement action including instituting prosecutions, making applications to courts and tribunals and authorising officer to appear on behalf of the Council.

3.13.5 To take all necessary action in respect of the Council's role in relation to the administration and operation of the Cumbria Local Government Pension Fund unless specified in the Constitution or in law as having to be taken by elected members or another officer. This includes overseeing compliance by the Council and exercising the functions of the Council in its capacity as shareholder of (i) any Council subsidiary company which holds assets for and on behalf of the Council as Administering Authority for the Cumbria Local Government Pension Fund and (ii) of BCPP Limited and determining the Council's position as shareholder on decisions of the relevant company that are reserved to the shareholders.

3.13.6 To act as the Council's shareholder representative in respect of Cumbria County Holdings Limited, Barrow Forward Limited and other companies in which the Council has shareholdings or ownership

3.13.7 To make recommendations to the Council on Council Tax requirements, to determine the Council tax base and to administer and manage generally all matters relating to Council Tax, Non Domestic Rates and General Rates including the awarding of discounts, relief, and exemptions and the levying, collection, recovery, and disbursement of all sums due to the Council in respect of the same in accordance with all governing Regulations.

3.13.8 To have the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members, implementing decisions and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional and operational areas:

Finance

(a) Accounts & Financial Planning

(b) Internal Audit & Risk Management

(c) Cumbria Local Government Pension Scheme

(d) Banking

(e) Insurance

(f) Treasury management

(g) Revenues & Benefits administration

(h) Council Tax & NNDR Collection

(i) Housing Revenue Account

(j) Local Council Tax Support Scheme

(k) Accountable Body and assurance requirements

Commissioning & Procurement

(l) Commissioning Strategy & Policy

(m) Contract Management & Register

(n) Procurement Strategy & Application

Corporate Assets, Fleet & Capital Programme

(o) Fleet Management

(p) Corporate Asset Management & Maintenance

(q) Corporate Landlord including for schools

(r) Capital Programme (including schools and Housing Revenue Account)

(s) Any other services allocated to the Director of Resources by the Chief Executive

The Director of Public Health

3.14 The Director of Public Health holds the statutory role for the Council as the person appointed as the Director of Public Health (required by section 73A of the National Health Service Act 2006).

3.15 The Director of Public Health has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional and operational areas:

3.15.1 The statutory functions of the Director of Public Health:

3.15.2 Public health intelligence

3.15.3 Health improvement

3.15.4 Health protection

3.15.5 Wider Determinants of Health and reducing health inequalities

3.15.6 Public Health commissioning, contract management and quality assurance for services that pertain to the Director of Public Health statutory responsibilities

3.15.7 Healthcare Public Health including providing advice to the NHS

3.15.8 Any other services allocated or reallocated to the Director of Public Health by the Chief Executive

The Director of Children's Services

3.16 The Director of Children's Services holds the statutory role for the Council of the Director of Children's Services (required by Section 18 of the Children Act 2004) and is the designated person for the purposes of Section 22 of the Children Act 1989.

3.17 The Director of Children's Services has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by Councillors, implementing decisions, and undertaking efficient management of the services, contracts and staff for which they are responsible in the following functional and operational areas:

Education & Inclusion

3.17.1 Support & Services for Early Years providers

3.17.2 Support & Services for Schools

3.17.3 Post 16 Education

3.17.4 Virtual School

3.17.5 Access to Education (Admissions/Attendance & Exclusion/ Education Otherwise)

3.17.6 Inclusion of Children with SEND & Disabilities

Children & Families

3.17.7 Early Help

3.17.8 Children in Need

3.17.9 Child Protection

3.17.10 Children in Care (Fostering/ Adoption/Residential)

3.17.11 Care Leavers

3.17.12 Youth Offending Service

3.17.13 Family Support Hubs

Quality, Resources & Transformation

3.17.14 Safeguarding & Quality Assurance (Safeguarding Board/SEND Partnership/Case Auditing/ Independent Reviewing Officers (IRO) & Local Authority Designated Officer (LADO) SENDIASS

3.17.15 Inspection & Regulation

3.17.16 School Organisation & Place Planning

3.17.17 External Placements – Commissioning & Contract Management

3.17.18 Home to School Transport

3.17.19 Traded Services

3.17.20 School Landlord and School Capital Programme (in consultation with Director of Resources)

3.17.21 Any other services allocated to the Director by the Chief Executive; and

The Director of Children's Services has specific powers to:

3.17.22 in consultation with the relevant Cabinet Member determine whether to undertake a consultation on a school organisation proposal where the Council is the proposer, provided that, decisions relating to school organisation must be referred to Cabinet for determination;

3.17.23 nominate local authority governors to maintained schools in consultation with the relevant local Councillor or the Chair and Vice Chair of the relevant Locality Board;

3.17.24 authorise Head teachers to carry out the functions of election and appointment of parent governors in relation to a community school, a community special school, a maintained nursery school or a voluntary controlled school as set out in Schedule 1 to the School Governance (Constitution) (England) Regulations 2012.

The Director of Adult Social Care

3.18 The Director of Adult Social Care and Housing holds the statutory role for the Council of the Director of Adult Social Services (required by Section 6 of the Local Authority Social Services Act 1970).

3.19 The Director of Adult Social Care and Housing has the full range of powers necessary to discharge the Council's functions, including taking decisions which are not specified in the Constitution or in law as having to be taken by elected members, implementing decisions and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional and operational areas:

Operations

3.19.1 Assessment, Review & Safeguarding

3.19.2 Older Adults

3.19.3 Mental health, learning & physical disability services

3.19.4 Reablement

3.19.5 Visual & Hearing impairment

Service Provision

3.19.6 Residential Care

3.19.7 Home Care & Reablement

3.19.8 Day Services

3.19.9 Respite Care

3.19.10 Supported Living & Extra Care

3.19.11 Community Equipment Services

3.19.12 Shared Lives

Quality Resources & Transformation

3.19.13 Independent Safeguarding Board

3.19.14 Integration of Health Services

3.19.15 Quality Assurance

3.19.16 CQC inspection readiness

3.19.17 Health & Care Act readiness

3.19.18 Financial Assessments & Charging

3.19.19 Direct Payments

3.19.20 Disabled Facilities grants

3.19.21 Appointee/Deputyship/ Deferred Payments

3.19.22 Any other services allocated to the Director by the Chief Executive

The Director of Enabler Services

With the exception of those functions and powers reserved to the Monitoring Officer, the Director of Enabler Services is responsible for the management of staff and resources necessary to discharge the Council's functions in the following functional areas:

Legal Services

3.19.23 Legal & Democratic Services

3.19.24 Member Development & Training

3.19.25 Elections

3.19.26 Coroners Services

3.19.27 Information Governance and Records Management

ICT

3.19.28 ICT Strategy

3.19.29 Digital Hardware selection & maintenance

3.19.30 Software development & maintenance

3.19.31 Cyber Security

HR/OD

3.19.32 People Management – Policy & Strategy & Payroll

3.19.33 Occupational Health

3.19.34 Organisational Development

3.19.35 Workforce Training & capability

3.19.36 Recruitment & Retention

3.19.37 Apprentices

3.19.38 Trade Union Relationships

3.19.39 Talent Management

3.19.40 Health & Safety

Customer & Digital

3.19.41 Customer Access, Service Centre & Customer Relationship Management

3.19.42 Digital Strategy, Innovation & Transformation

3.19.43 Corporate Complaints & Compliments, including Freedom of Information and Environmental Information Regulations matters.

3.19.44 Any other services allocated to the Director by the Chief Executive

The Assistant Chief Executive

3.20 The Assistant Chief Executive is responsible for the management of staff and resources necessary to discharge the Council's functions in the following functional areas:

Policy & Partnership

3.20.1 Corporate & Service Policy

3.20.2 Policy Framework

3.20.3 Council Plan, Business & Service Plan development

3.20.4 Scrutiny (Policy function)

3.20.5 Partnership Development and Direction Setting

3.20.6 Equality & Diversity

Business Intelligence

3.20.7 Corporate & Service Policy Performance & Improvement

3.20.8 Insight & data, Analysis & trends, Research

Communications

3.20.9 Corporate, Internal, External & Partner Communications

3.20.10 Active Press & Media Relations & Reputation Management

3.20.11 Promotion of the Westmorland & Furness brand

3.20.12 Engagement & Participation

Project Management Office (PMO)

3.20.13 Transformation & Business Change

3.20.14 Internal Programme & Project Management

3.20.15 External Funding and Accountable Body Programme Assurance Support

Emergency Planning

3.20.16 Emergency Planning and civil protection preparedness

3.20.17 Any other services allocated to the Assistant Chief Executive by the Chief Executive

The Director of Thriving Places and Head of Development Management

3.21 The Director of Thriving Places is responsible for the management of staff and resources necessary to discharge the Council's functions in the following functional areas:

3.21.1 Climate and Environment;

3.21.2 Highways Authority Functions;

3.21.3 Transport Authority Functions;

3.21.4 Traffic Management;

3.21.5 Street Scene and Environmental Services;

3.21.6 Parking and Parking Enforcement;

3.21.7 Housing Delivery;

3.21.8 Digital Infrastructure;

3.21.9 Economic Development;

3.21.10 Rights of Way and Countryside Management;

3.21.11 Development Management, including minerals and waste;

3.21.12 Nationally significant infrastructure planning;

3.21.13 Waste Authority functions;

3.21.14 All decisions and responses in respect of Neighbourhood Planning in consultation with the Lead Cabinet Member for Sustainable Communities and Localities, excluding decisions to make (adopt) a Neighbourhood Development Plan which will be reserved to Cabinet;

3.21.15 Flood and Coastal Authority functions;

3.21.16 Any other functions allocated to the Director by the Chief Executive

3.22.17 The Strategic Planning Committee has specifically delegated the following functions to the Head of Development Management.

A To determine all forms of planning and other applications and all notifications submitted under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 , Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (all as amended) or under any related principal or secondary legislation, except the following:

(a) any application, other than for Certificates of Lawfulness, prior notifications, prior approvals, discharge of condition and non[1]material amendments, which a Councillor, has called in (in accordance with the Call In procedure outlined below) to the relevant Planning Committee for decision[and which the Head of Planning, in consultation with the Chair, considers reasonable]. Any request to call an application in should be submitted within 21 days of receipt of a weekly list of new applications. Call In procedure: Councillors, must make a written request to the Head of Planning for an application to be called in and determined by the appropriate Planning Committee. The Councillor shall complete the Call in form, (provided upon request), giving a written material planning reason for the application to proceed to the relevant Planning Committee (email is acceptable) within 21 days of receipt of a weekly list of new applications. . This procedure shall not preclude a revised date being provided if the process timetable is revised for some reason).

(b) No determination shall be made where the application is a DEPARTURE from the Development Plan and which the Head of Planning is minded to recommend for approval.

(c) any application which the Head of Planning (or relevant job title) knows is made by or relating to property owned by a Councillor, Senior Officer of the Council or member of the Planning team or by a close relative of a Councillor, Senior Officer of the Council or member of the Planning team. A Senior Officer relates to Directors, Assistant Directors or Managers of the Council. A close relative is defined as spouse, partner, sibling, parent or offspring.

(d) No determination shall be made where an application is submitted by or on behalf of the Council or where it owns the land or where it has a financial interest unless no material planning objections have been received. For the avoidance of doubt this does not include submissions made in order to satisfy Conditions or applications received for non-material amendments.

(e) no determination shall be made, at the discretion of the Head of Planning in consultation with the relevant Planning Committee Chair, which conflicts with the

representations received from a Town or Parish Council where they are capable of being material planning considerations, unless those issues can be resolved by a suitable planning condition or legal agreement attached to a grant of permission in the opinion of the Head of Planning.

(f) no determination shall be made which is contrary to a recommendation of a statutory consultee as defined under Schedule 4 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (e.g. Highways) unless those issues can be resolved by a suitable planning condition or legal agreement attached to a grant of permission.

(g) Development which in the opinion of the Head of Planning is considered to be in the public interest to do so. In reaching this decision matters such as the type and scale of development, policy issues, novel proposals, and the nature of the representations made regarding the application, including any petitions received may be taken into account

B Any other matter which falls within the remit of the Committee, but which is not expressly reserved to it to be determined by councillors, including (but not limited to) the following matters:

1. Authorise, sign and serve all enforcement and other notices under the Town and Country Planning Act 1990, The Planning (Listed Buildings and Conservation Areas) Act 1990 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 on behalf of the Council, CPNs under Anti-social Behaviour Crime & Policing Act 2014, The Town and Country Planning (Tree Preservation)(England) Regulations 2012

2. The service of notices for the obtaining of information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976

3. Authorise the taking of prosecution action applications for injunctions and to instruct the Chief Legal and Monitoring Officer, as necessary, to instigate legal proceedings in respect of the enforcement of legislation relating to town and country planning and conservation.

4. To administer simple and conditional cautions in accordance with PACE and Home Office guidance to persons guilty of criminal offences under legislation relating to town and country planning and conservation.

5. Authorise the taking of default action under Sections 178 and 219 of the Town and Country Planning Act 1990.

6. To authorise the drafting, negotiation and completion of Section 106 Planning Obligations, S106A Variations to Planning Obligations and Release of Section 52 Planning Agreements and Section 39 Agreements and to authorise the giving of any approval or consent required pursuant to a S106 Planning Obligation, S106A Deed of Variation or Section 52 Planning Agreement, or Section 39 Agreements.

7. Authorise the making, confirmation, revocation and variations of Tree Preservations Orders and to determine applications for consent under such Orders.

8. To determine all applications subsequently found to consist of works that are Permitted Development

9. To determine any non-material amendments to a consent

10. Authorise individual named officers to exercise powers of entry contained in the following:

- The Hedgerow Regulations 1997
- Town and Country Planning Act 1990
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- Local Government (Miscellaneous Provisions) Act 1982
- Party Wall etc Act 1996
- Anti- Social Behaviour Act 2003

11. To review the Planning Authority's Local Validation Criteria, undertake public consultation, and revise the criteria as necessary.

12. Authority to withdraw an Enforcement Notice.

13. To make any non-material amendments or minor changes to the Planning Enforcement Document

14. To dispose of planning applications in accordance with the Town and Country Planning GDPO 2015 Articles 40 (or any subsequent legislation re-enacting or revising this Article).

The Head of Development Management shall be entitled to authorise in writing suitably qualified and experienced officers to exercise these delegated powers on their behalf. An up-to-date record of any such written authority shall be maintained by the Head of Development Management and a copy provided to the Monitoring Officer

3.22.18. The Licensing Committee has delegated the authority to the Director of Thriving Places to carry out the following functions:

(a) To allocate existing moorings on the bed of Lake Windermere.

(b) To grant or renew pleasure boat and boatmen's licences.

(c) To decide on the appropriate category of encroachment in the event of a change of ownership and to prepare all necessary encroachment agreements.

(d) To settle suitable charges with prospective users of holiday moorings for longer period lettings on Windermere

(e) To authorise the Lake Wardens or any other appropriate officer to be duly authorised officers of the Council under the Lake Windermere Byelaws 1986, or any statutory modification thereof.

(f) In consultation with the Chairman and Vice-Chairman of the Committee, to approve an extension of a jetty, by not more than 3.0 metres, on an otherwise straightforward "like for like" replacement; and report such approvals to the next meeting of the Committee.

(g) To make minor amendments to Lake fees and charges during the year, as required, in consultation with the Chairman and Vice-Chairman of the Committee.

(h) To determine all encroachment, mooring and dredging applications which are not retrospective and within the Council's existing policy, those decisions to be reported to next meeting of the Committee

(i) To review (in conjunction with the Chief Legal and Monitoring Officer and Director of Resources all encroachment applications and to consider them against the Council's Policy to determine which applications can Senior Manager with responsibility for this area Delegated Matter Officer Level be taken to Lake Administration Committee for consideration and in cases considered not to meet the policy requirements to reject

them. Where applicants seek to replace an encroachment on a like for like basis and where there may be a dispute with the calculation of the encroachment fees, a report will be brought forward to the Lake Administration Committee for consideration. A like for like basis is deemed to be an encroachment which replaces an existing encroachment, therefore one encroachment remains following completion of the new jetty or structure. Applicants will be allowed to increase the length of the jetty/ structure but the old encroachment must fall within the footprint of the new encroachment.

(j) To determine and agree the length of encroachment lease terms of between 10 and 25 years, based upon the professional advice of the Council's Assistant Director Corporate Assets, Fleet and Capital Programme and the Chief Legal and Monitoring Officer and those decisions to be reported to the earliest possible meeting of the Committee

The Director of Thriving Communities

3.22 The Director of Thriving Communities is responsible for the management of staff and resources necessary to discharge the Council's functions in the following functional areas:

Public Health (excluding the statutory functions of the DPH)

3.22.1 Health improvement

3.22.2 Healthcare Public Health

3.22.3 Health Protection

3.22.4 Reducing health inequalities

3.22.5 Commissioning Public Health Services (excluding the Statutory Functions/Services that pertain to the Director of Public Health's Statutory responsibilities)

3.23.6 Public Health Intelligence and Gatekeeper for authorisations under the Regulation of Investigatory Power Act 2000 Policy.

3.23.7 Health & Wellbeing coaches

Safe and Strong Communities

3.23.8 Community power and locality working

3.23.9 Asset based community development

3.23.10 Poverty and Food Inclusion

3.23.11 Liaison with Town and Parish Councils

3.23.12 Grant programme commissioning

3.23.13 Equality, Inclusion and Diversity including gypsies and travellers

3.23.14 Voluntary and community sector

3.23.15 Adult and community learning and development

3.23.16 Community Resilience

3.23.17 Community Safety

3.23.18 Enforcement, engagement and education

3.23.19 Community cohesion

3.23.20 Asylum Seekers & Refugees

3.23.21 Environmental Health

3.23.22 Environmental Protection

3.23.24 Licensing

3.23.25 Trading Standards

Community Infrastructure

3.23.26 Libraries & Archives

3.23.27 Leisure & Sport including client for Barrow Forward

3.23.28 Culture & Arts (including venues), Events & Festivals

3.23.29 Visitor Management

3.23.30 Heritage & Historic Environment & Museums

3.23.31 Parks, Play Areas & Open Spaces

3.23.32 Youth Facilities

3.23.33 Registrars

3.23.34 Cemeteries & Crematoria

3.23.35 Public Toilets

3.23.36 Community Hubs & Centres

Housing

3.23.37 Housing Landlord & Housing Revenue Account

3.23.38 Tenant Support & Housing Need inc Homelessness

3.23.39 Affordable Housing

3.23.40 Choice Based Lettings

3.23.41 Housing Strategy

3.23.42 Housing Standards

3.23.43 Regulation of Private Landlords

3.23.44 Empty Properties

3.23.45 Houses in Multiple Occupation (HMO's)

3.23.46 Disabled Facilities Grants

3.23.47 Any other services allocated to the Director by the Chief Executive

4 STATUTORY OFFICER AND PROPER OFFICER APPOINTMENTS

4.1 Many legislative provisions require the appointment of a Statutory Officer or Proper Officer to undertake formal responsibilities on behalf of the Council.

4.2 The Chief Executive / Head of Paid Service 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:

4.2.1 such designation is given by the Council to any other officer, or

4.2.2 the Chief Executive/Head of Paid Service, exercising the powers given to them by this Constitution, appoints another officer of the Council to be the Proper Officer for a specific service area or function.

4.3 The Scheme of Delegation to Officers and table below outlines the designated Statutory Officer and Proper Officer functions for the Council and those officers (or where necessary, their substitute) shall undertake the specific responsibilities entailed.

4.4 Statutory provisions and regulations are from time to time amended, replaced or re-enacted. When a statutory provision or regulation is amended, replaced or re-enacted, the appointments in the table below shall be effective in relation to the corresponding new provision.

4.5 Substitutes are identified to act where the Proper Officer is absent or otherwise unable to act.

4.6 In the event of any officer (and their substitute) identified in the Scheme of Delegation to Officers or in the table below being for any reason absent or unable to act and the officer/substitute has not made any other arrangements for the exercise of the relevant duties, the Chief Executive (in consultation with the Monitoring Officer) shall nominate an officer to act in their stead.

Statutory Officers

Statutory Requirement	Allocated to	Substitute
Local Government and Housing Act 1989 Section 4 Head of Paid Service	Chief Executive	Such other officer as may be appointed from time to time to deputise
Representation of the People Act 1983 Section 8 Electoral Registration Officer	Chief Executive	Such other officer as may be appointed from time to time to deputise
Representation of the People Act 1983 Section 28 Acting Returning Officer (Parliamentary)	Chief Executive	Such other officer as may be appointed from time to time to deputise
Representation of the People Act 1983 Section 35 Returning Officer (Local Elections)	Chief Executive	Such other officer as may be appointed from time to time to deputise

Statutory Requirement	Allocated to	Substitute
Weights and Measures Act 1985 Section 72 Chief Inspector of Weights and Measures	Trading Standards Manager	
Local Authority Social Services Act 1970 Section 6 Director of Adult Social Services	Director of Adult Social Services	Such other officer as may be appointed from time to time to deputise
Local Government Act 1972 Section 151 Chief Finance Officer	Chief Finance Officer / Section 151 Officer	Designated Deputy section 151 Officer
Local Government Act 2000 Section 9FB Scrutiny Officer	Director of Enabler Services	Such other officer as may be appointed from time to time to deputise
Local Government and Housing Act 1989 Section 5 Monitoring Officer	Chief Legal and Monitoring Officer	Designated Deputy Monitoring Officer
Children Act 2004 Section 18 Director of Children's Services	Director of Children's Services	Such other officer as may be appointed from time to time to deputise
Children Act 1989 Section 22 and 23ZZA Virtual School Headteacher	Director of Children's Services	Such other officer as may be appointed from time to time to deputise
National Health Service Act 2006 Section 73A	Director of Public Health	Such other officer as may be appointed from time to time to deputise

Proper Officers

Function	Legislative Provision	Proper Officer	Deputy
Reference in legislation to the "Clerk"	Any legislation before October 1972	Chief Executive	Such other officer as may be appointed from time to time to deputise
Appointment as Parish Trustee with Chair of as body corporate for a Parish Meeting; Officer responsible for convening newly created Parish Councils	Local Government Act 1972 Section 13(3)	Chief Executive Chief Executive	Such other officer as may be appointed from time to time to deputise
Witness and receipt of declaration of acceptance of office	Local Government Act 1972 Section 83	Chief Executive	Such other officer as may be appointed from time to time to deputise
Receipt of notice of resignation by councillor	Local Government Act 1972 Section 84	Chief Executive	Such other officer as may be appointed from time to time to deputise
Declare any vacancy in office	Local Government Act 1972 Section 86	Chief Executive	Such other officer as may be appointed from time to time to deputise
Convening a meeting of Council to fill casual	Local Government Act 1972	Monitoring Officer	Designated Deputy Monitoring Officer

Function	Legislative Provision	Proper Officer	Deputy
vacancy in office of Chair	Section 88(2)		
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	Such other officer as may be appointed from time to time to deputise
Exclusion of reports, etc. from inspection	Local Government Act 1972 Section 100B Schedule 12A	Monitoring Officer	Designated Deputy Monitoring Officer
Supply of documents to the press	Local Government Act 1972 Section 100B(7)(c)	Monitoring Officer	Designated Deputy Monitoring Officer
Written Summary where minutes would disclose exempt information	Local Government Act 1972 Section 100C	Monitoring Officer	Designated Deputy Monitoring Officer
Compilation of list of background papers	Local Government Act 1972 Section 100D	Monitoring Officer	Designated Deputy Monitoring Officer
Exclusion from production to Councillors of documents disclosing exempt information	Local Government Act 1972 Section 100F	Monitoring Officer	Designated Deputy Monitoring Officer
Receipt of money due from officers	Local Government Act 1972 Section 115(2)	Chief Finance Officer / Section 151 Officer	Designated Deputy section 151 Officer
Declarations and certificates with regard to securities	Local Government Act 1972 Section 146(1)(a)	Chief Finance Officer / Section 151 Officer	Designated Deputy section 151 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 / Section 151 Officer	Designated Deputy section 151 Officer
Functions with respect to ordnance survey	Local Government Act 1972 Section 191	Director of Thriving Places	Such other officer as may be appointed from time to time to deputise
Charity functions	Local Government Act 1972 Section 210	Monitoring Officer	Designated Deputy Monitoring Officer
Authorise Officers to appear in legal proceedings	Local Government Act 1972 Section 223 (Also Section 60 County Courts Act 1984)	Monitoring Officer	Designated Deputy Monitoring Officer
Deposit of documents pursuant to the Standing Orders of either Houses of Parliament or to any enactments/instruments	Local Government Act 1972 Section 225(1)	Monitoring Officer	Designated Deputy Monitoring Officer

Function	Legislative Provision	Proper Officer	Deputy
and any action as may be directed			
Certification of photographic copies of documents	Local Government Act 1972 Section 229(5)	Monitoring Officer	Designated Deputy Monitoring Officer
Authentication of documents	Local Government Act 1972 Section 234(1)	Monitoring Officer	Designated Deputy Monitoring Officer
Sending confirmed byelaws to the proper officer of every Parish and Community Council to which they apply	Local Government Act 1972 Section 236	Monitoring Officer	Designated Deputy Monitoring Officer
Certification of byelaws	Local Government Act 1972 Section 238	Monitoring Officer	Designated Deputy Monitoring Officer
Keeping of roll of Freemen	Local Government Act 1972 Section 248	Monitoring Officer	Designated Deputy Monitoring Officer
Signature of summons to council meetings	Local Government Act 1972 Section 99 & Schedule 12 Para.4(1A)(b)	Monitoring Officer	Designated Deputy Monitoring Officer
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)	Monitoring Officer	Designated Deputy Monitoring Officer
Certification of resolutions under paragraph 25 applying or disapplying provisions under the Public Health Acts 1875 onwards	Local Government Act 1972 Schedule 14 Para.25(7)	Director of Public Health	Such other officer as may be appointed from time to time to deputise
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 1949, the Food Safety Act 1990 and the Environmental Protection Act 1990 (as it relates to statutory nuisances)	Director of Thriving Communities	

Function	Legislative Provision	Proper Officer	Deputy
	(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	Director of Thriving Places Monitoring Officer	Such other officer as may be appointed from time to time to deputise Designated Deputy Monitoring Officer
Receipt on deposit of lists of buildings of special architectural or historical interest and Building Preservation Notices	Planning (Consequential Provisions) Act 1990 Schedule 3, para 3 Town and Country Planning Act 1971 Section s 54 & 58	Director of Thriving Places	Such other officer as may be appointed from time to time to deputise
Exercise of registration functions under various legislative provisions relating to births, deaths and marriages including appointment of superintendent registrars and local schemes and other ceremonies including citizenship ceremonies	Registration Service Act 1953 including Section s 9, 13 and 20 Marriage Act 1949, Civil Partnership Act 2004	Superintendent registrar or registrar of births and deaths must be qualified in accordance with prescribed conditions – s.6, reporting to the Senior Manager Cultural Services, Community Infrastructure, through to the Director of Thriving Communities.	Such other officer as may be appointed from time to time to deputise
Officer having responsibility for the storage and charge of cemetery records	Local Authorities' Cemeteries Order 1977 Article 12	Director of Thriving Communities	Such other officer as may be appointed from time to time to deputise
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	Director of Thriving Communities	Such other officer as may be appointed from time to time to deputise
The Registration Officer for any constituency of part of a constituency coterminous or situated in the Borough.	Representation of the People Act 1983 Section 8 and 52	Chief Executive	Such other officer as may be appointed from time to time to deputise

Function	Legislative Provision	Proper Officer	Deputy
Acting Returning Officer for Parliamentary elections	Representation of the People Act 1983 Section 28	Chief Executive	Such other officer as may be appointed from time to time to deputise
The Returning Officer for elections of Councillors of the District and for elections of Councillors of Parishes within the District and to receive and inspect returns and declarations of Election expenses	Representation of the People Act 1983 Section 35(1) Representation of the People Act 1983 Section 82 and 89	Chief Executive	Such other officer as may be appointed from time to time to deputise
Receipt of notice of appointment of election agent	Representation of the People Act 1983 Section 67	Chief Executive	Such other officer as may be appointed from time to time to deputise
Provision of accommodation for election court	Representation of the People Act 1983 Section 131	Chief Executive	Such other officer as may be appointed from time to time to deputise
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	Monitoring Officer	Designated Deputy Monitoring Officer
Publication of reports of Local Commissioners	Local Government Act 1974 Part 3 Section 30	Chief Executive	Such other officer as may be appointed from time to time to deputise
(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	Director of Thriving Communities Director Thriving Places Director Thriving Places	Such other officers as may be appointed from time to time to deputise
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	Such other officer as may be appointed from time to time to deputise

Function	Legislative Provision	Proper Officer	Deputy
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 Receipt of notice in writing that a Councillor wishes to forego any part of entitlement to an allowance To notify Political Groups of allocations	Local Government and Housing Act 1989 Sections 15,16, 17 & 18 Local Government Political Groups) Regulations 1990 Paras 9, 10, 13 & 14	Monitoring Officer	Designated Deputy Monitoring Officer
Discharging the functions for dealing with stray dogs	Environmental Protection Act 1990 Sections 149 - 151	Director of Thriving Communities	Such other officer as may be appointed from time to time to deputise
Service of notices requiring details of any interests in land.	Local Government (Miscellaneous Provisions) Act 1976 Section s 16	Monitoring Officer	Designated Deputy Monitoring Officer
Certification of copies of resolutions, minutes and other documents	Local Government (Miscellaneous Provisions) Act 1976 Section 41	Monitoring Officer	Designated Deputy Monitoring Officer
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	Director of Public Health	Such other officer as may be appointed from time to time to deputise
Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons.	Regulations 2, 3 and 6 of The Health Protection (Notification) Regulations 2010	Director of Public Health	Such other officer as may be appointed from time to time to deputise
Preparation of certificate of Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately.	Section 48 of the Public Health (Control of Disease) Act 1984 as amended by Health and Social Care Act 2008	Director of Public Health	Such other officer as may be appointed from time to time to deputise

Function	Legislative Provision	Proper Officer	Deputy
Signature and authentication of notices, orders or other documents	Section 59 Public Health (Control of Disease) Act 1984	Director of Public Health	Such other officer as may be appointed from time to time to deputise
Power to enter premises	Sections 61 and 62 of the Public Health (Control of Disease) Act 1984	Director of Public Health / Director Thriving Communities	Such other officer as may be appointed from time to time to deputise
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	Director of Thriving Places	Such other officer as may be appointed from time to time to deputise
Entertainments, licensing control of sex shops and public health	Local Government (Miscellaneous Provisions) Act 1982	Director of Thriving Communities	Such other officer as may be appointed from time to time to deputise
Licensing and gambling functions	Licensing Act 2003 Gambling Act 2005	Director of Thriving Communities	Such other officer as may be appointed from time to time to deputise
Non-disclosure where potential to prejudice the effective conduct of public affairs	Freedom of Information Act 2000 Section 36	Monitoring Officer	Designated Deputy Monitoring Officer
Proper Officer Functions for petitions and referenda	Local Authorities (Referendums) (Petitions) (England) Regulations 2011/2914	Chief Executive	Such other officer as may be appointed from time to time to deputise
29 – Establish and maintain a register of Councillors' and co-opted members' interests 30 – 31 – Receipt of Councillors and co-opted members' declarations of interests and changes to those interests within 28 days 32 – Sensitive Interests 33 – Dispensations from restrictions under Section 31(4)	Localism Act 2011 Sections 29 - 33	Monitoring Officer	Designated Deputy Monitoring Officer
Proper Officer functions in relation to referendums	Local Authorities (Conduct of Referendums) (England) Regulations 2012	Chief Executive	Such other officer as may be appointed from time to time to deputise
Proper Officer functions anti-social behaviour and community protection	Anti-Social Behaviour Act 2003 and Anti-Social Behaviour, Crime and Policing Act 2014	Director Thriving Communities	Such other officer as may be appointed from time to time to deputise
Proper Officer for notification to deal with objections by the	Local Authorities (Standing Orders)	Monitoring Officer	Designated Deputy Monitoring Officer

Function	Legislative Provision	Proper Officer	Deputy
Executive to appointments or dismissals of Chief and Deputy Chief Officers	(England) Regulations 2001/3384		
Arrangements for network management and appointment of Traffic Manager	Section 17 of the Traffic Management Act 2004	Director of Thriving Places	Such other officer as may be appointed from time to time to deputise
Data Protection Officer	Data Protection Act 2018	Officers appointed to the role of Data Protection Officer	Such other officer as may be appointed from time to time to deputise.
SIRO	UK GDPR	Director Enabler Services	Such Deputies as may be appointed from time to time to deputise
Terrorism Act 2000 Part 3	Terrorism Act 2000 Part 3	Chief Executive	Such other officer as may be appointed from time to time to deputise
Making accounts available to inspection by Councillors of the Council	Local Government Act 1972 Section 228(3)	Chief Finance Officer / Section 151 Officer	Designated Deputy section 151 Officer
Responsibility for Chief Finance Officer Reports	Proceeds of Crime Act 2002 Part 7	Chief Finance Officer / Section 151 Officer	Designated Deputy section 151 Officer
Appointment of Rent Officers under a scheme Certification of provision of suitable alternative accommodation	Rent Act 1977 Section 63 Schedule 15, Part IV, para 7	Director of Thriving Services	Such other officer as may be appointed from time to time to deputise
Receipt and inspection of complaints of category 1 and 2 hazards on residential premises	Housing Act 2004 Section 4	Director of Thriving Communities	Such other officer as may be appointed from time to time to deputise
“Authorised Officer” to act in matters arising under the Food Safety Act	Food Safety Act 1990 Section 5	Director of Thriving Communities	Such other officer as may be appointed from time to time to deputise
Appointment of agricultural inspectors and an agricultural analyst	Agriculture Act 1970 Section 67	Director of Thriving Communities	Such other officer as may be appointed from time to time to deputise
Receipt of certificates approving dedication of highways to be maintainable at public expense and making certificates available for inspection. Power to adopt the highway by agreement	Highways Act 1980 Section 37(5) Section 38	Director Thriving Places	Such other officer as may be appointed from time to time to deputise
Duties in relation to street works in private streets	Highways Act 1980 Section 205(3) and (5)	Director Thriving Places	Such other officer as may be appointed from time to time to deputise

Function	Legislative Provision	Proper Officer	Deputy
Certification of document giving details of any amendments to estimate of costs and provisional apportionment of costs of street works in private streets	Highways Act 1980 Section 210(2)	Director Thriving Places	Such other officer as may be appointed from time to time to deputise
Making a final apportionment of costs of street works under the private street works code	Highways Act 1980 Section 211(1), 212(4), 216(2) and (3)	Director Thriving Places	Such other officer as may be appointed from time to time to deputise
Agreements for the execution of works	Highways Act 1980 Section 278	Director Thriving Places	Such other officer as may be appointed from time to time to deputise
Issuing of notice to require owners to remove materials from streets in which works are due to take place	Highways Act 1980 Section 295	Director Thriving Places	Such other officer as may be appointed from time to time to deputise
Signature and authentication of notices, consents, approvals, orders, demands, licences, certificates and other documents.	Highways Act 1980 Section 321	Director Thriving Places	Such other officer as may be appointed from time to time to deputise
Receive notification of, and having free access to, repairs of drains	Building Act 1984 Section 61	Director Thriving Places	Such other officer as may be appointed from time to time to deputise
Access to the countryside	Countryside and Rights of Way Act 2000 Section 1	Director Thriving Places	Such other officer as may be appointed from time to time to deputise
Nomination of Public Analyst	Food Safety Act 1990 Section 27	Director of Thriving Communities	
Caldicott Guardian	Health & Social Care (National Data Guardian) Act 2018	Director of Adult Social Care	

5 DELEGATIONS FROM PLANNING COMMITTEE TO HEAD OF DEVELOPMENT MANAGEMENT

A To determine all forms of planning and other applications and all notifications submitted under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (all as amended) or under any related principal or secondary legislation, except the following:

a) any application, other than for Certificates of Lawfulness, prior notifications, prior approvals, discharge of condition and non- material amendments, which a Councillor, has called in (in accordance with the Call In procedure outlined below) to the relevant Planning Committee for decision [and which the Head of Planning, in consultation with the Chair, considers reasonable]. Any request to call an application in should be submitted within 21 days of receipt of a weekly list of new applications.

b) Call In procedure: Councillors, must make a written request to the Head of Planning for an application to be called in and determined by the appropriate Planning Committee. The Councillor shall complete the Call in form, (provided upon request), giving a written material planning reason for the application to proceed to the relevant Planning Committee (email is acceptable) within 21 days of receipt of a weekly list of new applications. . This procedure shall not preclude a revised date being provided if the process timetable is revised for some reason).

c) (b) No determination shall be made where the application is a DEPARTURE from the Development Plan and which the Head of Planning is minded to recommend for approval.

d) (c) any application which the Head of Planning (or relevant job title) knows is made by or relating to property owned by a Councillor, Senior Officer of the Council or member of the Planning team or by a close relative of a Councillor, Senior Officer of the Council or member of the Planning team. A Senior Officer relates to Directors, Assistant Directors or Managers of the Council. A close relative is defined as spouse, partner, sibling, parent or offspring.

e) (d) No determination shall be made where an application is submitted by or on behalf of the Council or where it owns the land or where it has a financial interest unless no material planning objections have been received. For the avoidance of doubt this does not include submissions made in order to satisfy Conditions or applications received for non-material amendments.

f) (e) no determination shall be made, at the discretion of the Head of Planning in consultation with the relevant Planning Committee Chair, which conflicts with the representations received from a Town or Parish Council where they are capable of being material planning considerations, unless those issues can be resolved by a suitable planning condition or legal agreement attached to a grant of permission in the opinion of the Head of Planning.

g) (f) no determination shall be made which is contrary to a recommendation of a statutory consultee as defined under Schedule 4 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (e.g. Highways) unless those issues can be resolved by a suitable planning condition or legal agreement attached to a grant of permission.

h) (g) Development which in the opinion of the Head of Planning is considered to be in the public interest to do so. In reaching this decision matters such as the type and scale of development, policy issues, novel proposals, and the nature of the representations made regarding the application, including any petitions received may be taken into account

B Any other matter which falls within the remit of the Committee, but which is not expressly reserved to it to be determined by councillors, including (but not limited to) the following matters:-

a) Authorise, sign and serve all enforcement and other notices under the Town and Country Planning Act 1990, The Planning (Listed Buildings and Conservation Areas) Act 1990 and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 on behalf of the Council, CPNs under Anti-social Behaviour Crime & Policing Act 2014, The Town and Country Planning (Tree Preservation)(England) Regulations 2012

b) The service of notices for the obtaining of information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976

c) Authorise the taking of prosecution action applications for injunctions and to instruct the Chief Legal and Monitoring Officer, as necessary, to instigate legal proceedings in respect of the enforcement of legislation relating to town and country planning and conservation.

d) To administer simple and conditional cautions in accordance with PACE and Home Office guidance to persons guilty of criminal offences under legislation relating to town and country planning and conservation.

e) Authorise the taking of default action under Sections 178 and 219 of the Town and Country Planning Act 1990.

f) To authorise the drafting, negotiation and completion of Section 106 Planning Obligations, S106A Variations to Planning Obligations and Release of Section 52 Planning Agreements and Section 39 Agreements and to authorise the giving of any approval or consent required pursuant to a S106 Planning Obligation, S106A Deed of Variation or Section 52 Planning Agreement, or Section 39 Agreements.

g) Authorise the making, confirmation, revocation and variations of Tree Preservations Orders and to determine applications for consent under such Orders.
h) To determine all applications subsequently found to consist of works that are Permitted Development
i) To determine any non-material amendments to a consent
j) Authorise individual named officers to exercise powers of entry contained in the following:

    i) The Hedgerow Regulations 1997
    ii) Town and Country Planning Act 1990
    iii) Planning (Listed Buildings and Conservation Areas) Act 1990
    iv) Planning (Hazardous Substances) Act 1990
    v) Local Government (Miscellaneous Provisions) Act 1982
    vi) Party Wall etc Act 1996
    vii) Anti- Social Behaviour Act 2003

11. To review the Planning Authority's Local Validation Criteria, undertake public consultation, and revise the criteria as necessary.
12. Authority to withdraw an Enforcement Notice.
13. To make any non-material amendments or minor changes to the Planning Enforcement Document
14. To dispose of planning applications in accordance with the Town and Country Planning GDPO 2015 Articles 40 (or any subsequent legislation re-enacting or revising this Article).

The Head of Development Management shall be entitled to authorise in writing suitably qualified and experienced officers to exercise these delegated powers on their behalf. An up-to-date record of any such written authority shall be maintained by the Head of Development Management and a copy provided to the Monitoring Officer.

Westmorland & Furness Council

Part 3
Procedure Rules

PART 3 CONTENTS PAGE

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Part 3 – Section 1 – Council Procedure Rules

Procedure Rules for the Meetings of Council

1 ANNUAL MEETING OF THE COUNCIL

Timing and Business

1.1 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, or such other day in March or April as the Council may fix.

1.2 The Annual Meeting will:

1.2.1 elect a person to preside if the Council Chair is not present;

1.2.2 elect the Chair of the Council;

1.2.3 elect the Deputy Chair of the Council;

1.2.4 receive any declarations of interest from Members;

1.2.5 approve the minutes of the last meeting;

1.2.6 receive any announcements from the Chair and / Chief Executive;

1.2.7 elect the Leader upon expiry of their term of office;

1.2.8 note the decision of the Leader on the number of Members to be appointed to the Cabinet and those Members appointed by the Leader to the Cabinet and note any amendments to the arrangements for the delegation of executive functions made by them;

1.2.9 appoint such committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 2 of this Constitution);

1.2.10 agree amendments (if any) to the Scheme of Delegation (as set out in Part 2 of this Constitution) in respect of Council functions;

1.2.11 approve a programme of ordinary meetings of the Council for the year; and

1.2.12 consider any business set out in the notice convening the meeting.

Selection of Councillors on Committees and Outside Bodies

1.3 At the Annual Meeting, the Council will:

1.3.1 decide which committees to establish for the municipal year;

1.3.2 decide the size and terms of reference for those committees;

1.3.3 decide the allocation of seats to political groups in accordance with the political balance rules;

1.3.4 receive nominations of Councillors to serve on each committee and outside body;

1.3.5 receive nominations of Councillors to serve as substitute members on each committee provided that substitute members may attend meetings in that capacity only:

(a) to take the place of the ordinary member for whom they are the designated substitute;

(b) where the ordinary member will be absent for the whole of the meeting; and

(c) after notifying the Monitoring Officer by noon on the day of the meeting of the intended substitution or no later than one hour before the meeting if the time of the meeting is before 1pm;

1.3.6 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; and

1.3.7 appoint the Chairs and Vice-Chairs of Council committees, other than those which the Council has decided should be appointed by the committee itself.

The Monitoring Officer is authorised as proper officer to appoint replacement members to serve on committees or outside bodies or to serve as substitute members on committees in accordance with the wishes of the Group Leaders within their approved allocation as agreed by Council from time to time.

2 ORDINARY MEETINGS

2.1 Except as otherwise provided by 2.2 below, the order of business at every Ordinary Meeting of the Council shall be to:

a. elect a person to preside if the Chair and Deputy Chair are not present;

b. receive apologies;

c. receive any declarations of interest from Members;

d. consider whether the press and public should be excluded from the meeting during consideration on any item on the agenda;

e. approve as a correct record and sign the minutes of the last meeting;

f. deal with any business required by statute to be done before any other business.

g. deal with any business adjourned from the last Council meeting;

h. receive petitions from the public under Rule 9;

i. receive minutes of the meetings of the Cabinet;

j. receive statements and questions and provide answers to the public under Rule 10;

k. receive any announcements from the Chair, Leader, Members of the Cabinet or the Chief Executive;

l. receive reports and recommendations from the Cabinet and the Council's committees and receive questions and answers on any of those reports;

m. receive questions from, and provide answers to Members under Rule 11;

n. consider other business specified in the summons to the meeting (the Agenda), including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework and reports of the Overview and Scrutiny committees for debate; and

o. consider Motions on Notice under Rule 12;

2.2 Business falling under items (a) to (g) of 2.1 above shall not be displaced, but the foregoing order of business may otherwise be varied by:

2.2.1 the Chair at their discretion; or

2.2.2 a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

3 EXTRAORDINARY MEETINGS

Calling Extraordinary Meetings

3.1 Those listed below may request the proper officer to call Extraordinary Council Meetings in addition to Ordinary Meetings:

3.1.1 the Council by resolution;

3.1.2 the Chair of Council;

3.1.3 the Monitoring Officer; or

3.1.4 any five Members if they have signed a requisition presented to the Chair and, within seven days of the presentation of the requisition, the Chair has refused to call a meeting or has failed to call a meeting.

Business

3.2 The business to be conducted at an Extraordinary Council Meeting shall be restricted to the item of business contained in the request for the Extraordinary Council Meeting and there shall be no consideration of previous minutes or reports from Committees except that the Chair may at their absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

4 TIME AND PLACE OF MEETINGS

4.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. The Chair may decide in consultation with the Chief Executive, or in the absence of the Chief Executive the Monitoring Officer, to hold a meeting at a different time or place.

4.2 Notice of the time and place of the intended meeting shall be published and included in the summons to the meeting by the proper officer.

5 NOTICE OF THE SUMMONS TO MEETINGS

5.1 The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules in **Part 3** of this Constitution. At least five clear days before a meeting, the proper officer will send a summons signed by them to every Member. The summons will normally be sent via electronic means.

5.2 The summons will give the date, time and place of the meeting and specify the business to be transacted at the meeting (the Agenda) together with accompanying reports.

Urgent business

5.3 No business shall be transacted at a meeting of the Council other than that specified in the summons relating thereto unless the Chair has agreed in consultation with the Head of Paid Service and Monitoring Officer that it is urgent and cannot wait until the next scheduled

meeting. The Chair must give the reasons for urgency, which must be recorded in the minutes of the meeting.

6 CHAIR OF MEETING

6.1 The person presiding at the meeting may exercise any power or duty of the Chair under the procedure rules. Where these Rules apply to committee and sub-committee meetings, references to the Chair mean the Chair of the relevant committees or sub-committee.

7 QUORUM

7.1 The quorum of a Council Meeting will be one quarter of the whole number of Members. During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

8 DURATION OF MEETINGS

8.1 Unless the majority of Members present vote for the Meeting to continue, any Meeting that has lasted for three hours (excluding adjournments) will adjourn immediately upon the completion of any speech being made at that time.

8.2 Any business under consideration at that time shall stand adjourned and shall (together with any remaining business) be considered at a reconvened Meeting to take place at a time and date fixed by the Chair.

8.3 If the Chair does not fix a date for the reconvened Meeting to take place, any adjourned item and the remaining business will be dealt with at the next Ordinary Meeting of Council.

9 RECEIPT OF PETITIONS

9.1 Petitions may be presented to the Council if submitted in accordance with the Public Participation Scheme approved by the Council and not rejected under that Scheme.

9.2 Petitions will be dealt with in accordance with the Public Participation Scheme.

9.3 If a petition has a minimum of 1,000 signatures it will be scheduled for debate at the Council meeting. Except where the matter raised by a petition appears as a separate item on the agenda of the relevant meeting, there shall be no discussion at the meeting on any matter raised by a petition with less than 1,000 signatures, but a Member may move that the matter be referred to the next meeting of the Cabinet or the appropriate Committee, Sub Committee, Panel or Working Group and this motion shall be immediately put to the vote.

10 QUESTIONS OR STATEMENTS BY MEMBERS OF THE PUBLIC

10.1 At each Ordinary Meeting of the Council (other than the Annual Meeting and Budget Council Meeting) a period of up to **30 minutes** shall be available to allow petitions submitted under Rule 9, statements and questions that have been submitted by members of the public who live, work or study in the Council's area in accordance with the Public Participation Scheme. The Chair may extend the 30 minute period at their discretion.

10.2 If the Monitoring Officer considers that the number of petitions, questions and statements received is such that they cannot all be dealt with within 30 minutes they will, after consulting with the Chair, select those which are to be put to the Council meeting. Any question which cannot be dealt with at the meeting because of lack of time will be dealt with by a written answer to be sent within ten working days of the Council meeting by the Member of whom the question was asked. Any statement or petition will be dealt with at a subsequent meeting.

10.3 The Chair will determine the order in which questions or statements under this section will be put and may group together similar statements and questions.

10.4 Questions and Statements will be dealt with in accordance with the Public Participation Scheme.

Number of questions

10.5 No person may submit more than one question, petition or statement to any one meeting and no more than one question or statement may be asked or made on behalf of an organisation at any one meeting. No question may be sub-divided into more than two related parts.

Reference of question to Cabinet or a Committee

10.6 Except where the matter raised by a question or statement appears as a separate item on the agenda of the relevant meeting, there shall be no discussion at the meeting on any matter raised by the statement or question but a Member may move that the matter be referred to the next meeting of the Cabinet or the appropriate Committee, Sub Committee, Panel or Working Group and this motion shall be immediately put to the vote.

Regulatory Committees

10.7 Separate arrangements are in place for the public to ask questions and make representations at meetings of the Planning, Licensing and Regulatory Committees, which are set out in specific schemes applicable to the proceedings of those meetings.

11 QUESTIONS BY MEMBERS OF THE COUNCIL

On reports from the Cabinet or Committees and minutes of Cabinet

11.1 At each Meeting of the Council Members may ask the Leader, the relevant member of the Cabinet or the Chair of a committee, any question on a report of the Cabinet or a committee, or the minutes of a Cabinet meeting, or any other question relevant to Westmorland and Furness area.

11.1.1 Only Members who are not Cabinet Members shall be allowed to ask Cabinet Members questions on the Cabinet report, to enable Council to hold the Cabinet to account.

11.1.2 Cabinet Members may only question the Leader on any matters which have not previously been considered at Cabinet.

11.2 At each Budget Council Meeting, Members may ask questions relating only to the budget items and any other reports on the agenda, but there will not be “Questions by Members of the Council” agenda item at the Budget Meeting.

11.3 Any questions are limited to two minutes duration.

11.4 The Chair shall have discretion to limit further questions where, in the Chair’s belief, the questions that have already been put are representative of the views of the Members and allowing further questions would impede proper attention to further business.

Questions on notice at full Council

11.5 Subject to Rule 11.7, a Member of the Council may ask:

11.5.1 the Leader;

11.5.2 a Member of the Cabinet;

11.5.3 the Chair of any committee

a question on any matter in relation to which the Council has powers or duties or which affects the Council's area; or

11.6 Subject to Rule 11.7, A Member of the Council may ask the Member nominated to respond on behalf of the Police Crime and Fire Panel or any other joint authority, joint committee or panel, any question on the discharge of the functions of the relevant joint authority, joint committee or panel.

Notice of Questions

11.7 A Member may only ask a question under Rule 11.5 or 11.6 provided:

11.7.1 that notice in writing of the question has been given to the Monitoring Officer by noon on the fourth working day prior to the meeting provided that the Chair, in consultation with the Monitoring Officer, may allow a question to be asked if the content of the question is given to the Monitoring Officer by noon on the day of the meeting and the Chair considers the matter is urgent; and

11.8 The Monitoring Officer may reject any question that:

(a) is not about a matter for which the Council has a responsibility or which affects the Council's area;

(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 Members or officers; or

(f) is in some other respect considered to be out of order, illegal, irregular or improper.

Response

11.9 An answer may take the form of:

11.9.1 a direct oral answer;

11.9.2 where the desired information is in a publication of the Council or other published work, a reference to that publication; or

11.9.3 where the reply cannot conveniently be given orally, a written answer sent to the questioner and circulated to all Members.

Supplementary Question

11.10 A Member asking a question under Rule 11 may ask one further supplementary question, without notice, of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question and the reply and will be restricted to two minutes duration.

Order of Questions

11.11 The Chair will determine the order in which questions under this section are put.

Duration of Question Time

11.12 The length of time for questions by Members under this Rule 11, including the giving of answers, shall be limited to **30 minutes** in total unless the Council agrees to an extension.

11.13 Following all questions having been asked and answered and where time allows further questions may be asked without notice at the absolute discretion of the Chair.

Written Answers

11.14 Any question which cannot be dealt with because of lack of time will be dealt with by a written answer to be sent within ten working days of the Council meeting by the Member of whom the question was asked and appended to the minutes for Members information (unless containing information provided in confidence or confidential or exempt information as defined in the Access to Information Procedure Rules)

12 MOTIONS ON NOTICE

Notice

12.1 Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by at least 2 Members, must be delivered to the Monitoring Officer not later than noon on the ninth working day before the date of the next meeting of the Council. A copy will be sent to Group Leaders.

Scope

12.2 Motions must be about matters for which the Council has a responsibility or which affect the Council's area.

12.3 Where in the reasonable opinion of the Monitoring Officer a motion is likely to have:

12.3.1 an impact on the Council's Policy Framework; and/or

12.3.2 a significant impact on the Council's budgets;

upon being formally moved and seconded, that motion shall be referred without discussion or amendment to the Chief Executive to investigate the feasibility of the proposals, the outcome of which shall be reported to a future meeting of Council.

12.4 The Monitoring Officer may in consultation with the Chair reject any motion that:

12.4.1 is not about a matter for which the Council has a responsibility or which affects the Council's area;

12.4.2 is potentially defamatory, vexatious, frivolous or offensive;

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

12.4.4 is substantially the same as a motion which has been put at a meeting of the Council in the past six months

12.4.5 relates to individual staffing matters or the personal information of Members or Officers; or

12.4.6 is in some other respect considered to be out of order, illegal, irregular or improper

Motion set out in Agenda

12.5 Motions for which notice has been given will be listed on the agenda (in the order in which notice was received), unless the Members giving notice state, in writing, that they propose to move it to a later meeting or withdraw it. Motions on notice will not normally be presented at Budget Council unless the Chair (in consultation with the Chief Legal and Monitoring Officer) considers them to be of such urgency that it is not in the public interest for them to be deferred.

Number of Motions

12.6 Any Member may give notice of only one motion for consideration at any meeting of the full Council.

13 MOTIONS WITHOUT NOTICE

13.1 The following motions may be moved without notice:

13.1.1 to appoint a chair of the meeting at which the motion is moved;

13.1.2 in relation to the accuracy of the minutes;

13.1.3 to change the order of business in the agenda;

13.1.4 to refer something to an appropriate body or individual;

13.1.5 to appoint a committee or Member arising from an item on the summons for the meeting;

13.1.6 to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;

13.1.7 to withdraw a motion;

13.1.8 to amend a motion;

13.1.9 to proceed to the next business;

13.1.10 that the question be now put;

13.1.11 to adjourn a debate;

13.1.12 to adjourn a meeting;

13.1.13 to suspend a particular Council procedure rule;

13.1.14 to exclude the public and press in accordance with the Access to Information Procedure Rules;

13.1.15 to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and

13.1.16 to give the consent of the Council where its consent is required by this Constitution.

14 RULES OF DEBATE

14.1 A motion may be moved by a signatory or, in their absence and with the Chair's consent, someone authorised on their behalf.

No speeches until motion seconded

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

Right to require motion in writing

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

Seconder's speech

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

Content and length of speeches

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

When a Member may speak again

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

14.6.1 to speak once on an amendment moved by another Member;

14.6.2 to move a further amendment;

14.6.3 if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);

14.6.4 in exercise of a right of reply;

14.6.5 on a point of order; and

14.6.6 by way of personal explanation.

Amendments to motions

14.7 An amendment to a motion must be relevant to the motion and will be:

14.7.1 to refer the matter to an appropriate body or individual for consideration or reconsideration;

14.7.2 to leave out words;

14.7.3 to leave out words and insert or add others; or

14.7.4 to insert or add words

as long as the effect of Rules 14.7(b) to 14.7(d) is not to negate the motion.

14.8 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.

14.9 When an amendment has been disposed of, other amendments to the original motion may be moved.

14.10 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.

14.11 After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none and no other Member wishes to exercise the right to speak, put it to the vote.

14.12 At the meeting(s) of the Council which set(s) the **Budget** for the following financial year, including the Council Tax base, Council Tax levy and **Capital Programme**, at the Chair's discretion, each Cabinet Member may be invited to speak on the Budget in relation to their area of responsibility.

14.13 No amendments to a motion or recommendation that relates to the Budget or Policy Framework may be moved unless written notice which sets out the amendment or amendments proposed has been given by the Member(s) proposing the amendment(s) and has been delivered to the Monitoring Officer not later than noon on the second working day before the date of the meeting. Following receipt of such notice, a copy of the notice will be circulated to all Members as soon as reasonably practicable. If the Chair is satisfied that for reasons of urgency or for other good reason that it is not practicable for notice to be given in accordance with this Rule, they may waive the requirement.

14.14 Each amendment shall be moved, seconded and debated in turn in the order determined by the Chair. The Leader (or other Member moving the substantive item relating to the Budget) shall have a right of reply at the end of the debate on each amendment. At the conclusion of the debate on an amendment, the amendment shall be voted on. If any proposed amendment is carried, Rule 14.13 will not apply to any further amendments. When all amendments have been disposed of, the vote will be taken on the substantive motion.

Alteration of motion

14.15 A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

14.16 A Member may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

14.17 Only alterations which could be made as an amendment may be made.

Withdrawal of motion

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

Right of reply

14.19 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.

14.20 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

14.21 The mover of the amendment has no right of reply to the debate on their amendment.

14.22 In exercising a right of reply, the mover may not introduce any new matter.

Motions which may be moved during debate

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

14.23.1 to withdraw a motion;

14.23.2 to amend a motion;

14.23.3 to proceed to the next business;

14.23.4 that the question be now put;

14.23.5 to adjourn a debate;

14.23.6 to adjourn a meeting;

14.23.7 to exclude the public and press in accordance with the Access to Information Procedure Rules; and

14.23.8 to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4

Closure motions

14.24 A Member may move, without comment, the following motions at the end of a speech of another Member:

14.24.1 to proceed to the next business;

14.24.2 that the question be now put;

14.24.3 to adjourn a debate; or

14.24.4 to adjourn a meeting.

14.25 If a motion to proceed to the next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

14.26 If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.

14.27 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks any item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply. Any business under consideration at that time together with any remaining business shall be considered at a reconvened Meeting or at the next Ordinary Meeting of the Council.

Duties of the Chair or Person Presiding

14.28 Where, in the Chair's belief, any debate shall already have represented the views of Members, the Chair shall, notwithstanding that no closure motion has been moved under Rules 14.23 to 14.26, have discretion to intervene to limit any further debate in order not to impede proper attention to further business.

Point of Order

14.29 A Member 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 Member 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.

Personal Explanation

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

Motions or amendments affecting persons employed by the Council

14.31 If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct, of any person employed by the Council, that question shall not be discussed until the Council, committee or sub-committee has decided whether or not the power of exclusion of the public under the Access to Information Procedure Rules should be exercised.

15 PREVIOUS DECISIONS AND MOTIONS

Motion to rescind a previous decision

15.1 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 10 Members.

Motion similar to one previously rejected

15.2 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 10 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

15.3 This Rule does not apply to a motion moved whilst the Council has before it a relevant report or recommendation of the Cabinet or a committee.

16 VOTING

Majority

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

Chair's casting vote

16.2 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 casting vote.

Voting at Council Meetings

16.3 The mode of voting at meetings of the Council shall be at the discretion of the Chair and may include by way of:

16.3.1 show of hands;

16.3.2 electronic equipment installed in the venue in which the meeting is taking place;

16.3.3 an electronic voting application or software on personal or mobile devices; or

16.3.4 such other means as the Chair considers appropriate.

Voting in relation to setting the Budget

16.4 At a Budget decision meeting of the Council:-

16.4.1 Immediately after any vote is taken there must be recorded in the minutes of the proceedings of that meeting the names of the Members who cast a vote for or against the decision or who abstained from voting.

16.4.2 Reference to a "Budget decision meeting" for the purposes of this Rule means a meeting of the Council at which it makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, or 52ZJ of the Local Government Finance Act 1992 and includes a meeting where making the calculation was included as an item of business on the agenda for that meeting.

16.4.3 Reference to a "vote" for the purposes of this Rule are references to a vote on any decision related to the setting of the budget or the calculation in accordance with any of sections 31A, 31B, 34 to 36A or 52ZJ of the Local Government Finance Act 1992 as the case may be including a vote on any amendment to a proposal.

Voting at Other Meetings

16.5 Unless a ballot or recorded vote is demanded as set out below the Chair will take the vote by use of the electronic voting system or by show of hands or, if there is no dissent, by the affirmation of the meeting.

Ballots

16.6 The vote will take place by ballot if a majority of the Members present and eligible to vote at the meeting demand it. The Chair will announce the numerical result of the ballot immediately after the result is known.

Recorded vote

16.7 If one third of the Members present and eligible to vote at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

Right to require individual vote to be recorded

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

Voting on appointments

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

17 MINUTES

Signing the minutes

17.1 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.

17.2 The only part of the minutes that can be discussed is their accuracy.

No requirement to sign minutes of the previous meeting at an extraordinary meeting

17.3 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.

Form of minutes

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

18 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** of this Constitution or Rule 20 (Disturbance by Public).

19 MEMBERS' CONDUCT

Standing to speak

19.1 When a Member speaks at full Council they should stand and address the meeting through the Chair, if they are able to do so. If more than one Member stands, the Chair will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation. The Chair may waive the requirement to stand if they consider this to be appropriate.

Chair standing

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

Member not to be heard further

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

Member to leave the meeting

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

General disturbance

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

20 DISTURBANCE BY PUBLIC

Removal of member of the public

20.1 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 and will adjourn the meeting while they are removed from the meeting room.

Clearance of part of meeting room

20.2 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.

21 RECORDING OF MEETINGS

21.1 While any meeting is open to the public, any person present is permitted to report the proceedings by:

21.1.1 filming, photographing or making an audio recording of the proceedings at the meeting;

21.1.2 using any other means for enabling persons not present to see or hear proceedings at the meeting as it takes place or later;

21.1.3 reporting or providing commentary on proceedings at the meeting orally (but not whilst present in the meeting) or in writing, so that the report or commentary is available to other persons as the meeting takes place or later; or

21.1.4 using any communication method, including the internet, to publish, post or otherwise share the report.

21.2 The right to report is subject to the Chair's power to deal with disturbance at the meeting. The meeting should not be disrupted by, for example, reporting activities, flash photography or intrusive equipment.

21.3 Any person recording a meeting is requested to focus on recording councillors, officers and the public who are directly involved in the conduct of the meeting. No recording should take place of children, vulnerable persons or other members of the public who actively object to being filmed.

22 SUSPENSION, AMENDMENT AND INTERPRETATION OF COUNCIL PROCEDURE RULES

Suspension

22.1 All of these Council Rules of Procedure except Rule 16.8 and 17.3 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can last for the duration of an item or items of business being dealt with at a meeting or may at most be for the duration of the meeting.

Amendment

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

Interpretation

22.3 The ruling of the Chair as to the construction or application of any of these Rules of Procedure, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

23 DECLARATIONS OF INTEREST AND WITHDRAWAL FROM MEETINGS

23.1 A Member must withdraw from the meeting room (including from the public gallery) in accordance with the Code of Conduct during the whole of the consideration of any item of business in which they have a Disclosable Pecuniary Interest or other Registerable Interest or Non-Registerable Interest except where permitted to remain under the Code of Conduct or as a result of a

dispensation subject to the right to speak on any matter if members of the public are also allowed to speak on the matter.

24 APPLICATION TO CABINET COMMITTEES AND SUB-COMMITTEES

24.1 None of the Rules apply to meetings of the Cabinet. Rules 4, 5, 6, 8, 13 - 23 (except Rule 16.3 – 16.9 and Rule 19.1) apply to meetings of committees and sub-committees.

Part 3 – Section 2 – Cabinet Procedure Rules

1 HOW THE EXECUTIVE OPERATES

Who May Make Executive Decisions

1.1 The Leader may discharge any executive functions of the Council or they may provide for any executive functions to be discharged by:

1.1.1 the Cabinet as a whole;

1.1.2 a committee of the Cabinet;

1.1.3 an individual Cabinet member;

1.1.4 an officer of the authority;

1.1.5 a Locality Board;

1.1.6 joint arrangements; or

1.1.7 another local authority.

Appointments and Delegation by the Leader

1.2 At the Annual Meeting of the Full Council, the Leader will present the names of the Councillors appointed to the Cabinet by the Leader (including the Cabinet member who is appointed as the Deputy Leader) and their portfolios.

1.3 Either at the Annual Meeting of the Full Council or as soon as practicable thereafter, the Leader will present to the Monitoring Officer a written record of:

1.3.1 the detailed remits of the portfolios of the Cabinet members;

1.3.2 any delegations made by the Leader in respect of the discharge of the Council's executive functions. The document presented by the Leader to the Monitoring Officer will contain the following information about the discharge of the Council's executive functions in relation to the coming year:

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

(b) the extent of any authority delegated to individual Cabinet members, including details of any limitation on their authority;

(c) the terms of reference and constitution of such committees of the Cabinet as the Leader appoints and the names of Cabinet members appointed to them;

(d) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year; and

(e) the nature and extent of any delegation of executive functions to Council officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

Sub-delegation of Cabinet Functions

1.4 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 or to a Council officer;

1.5 Where the Leader delegates an executive function to a committee of the Cabinet or an individual Cabinet member 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;

1.6 Even where executive functions have been delegated as above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation; and

1.7 Where the Leader seeks to withdraw a delegation from a committee of the Cabinet, notice will be deemed to be served on that committee of the Cabinet when the Leader has served it on its Chair.

The Scheme of Delegation and Executive Functions

1.8 The Leader may amend the Officer Scheme of Delegation set out in **Part 2** of this Constitution insofar as it relates to executive functions at any time during the year in accordance with the procedure set out below:

1.8.1 Where the Leader wishes to delegate the discharge of an executive function that has not been previously delegated, the Leader must give written notice of the new delegation to both the person or body to whom the executive function is to be delegated and the Monitoring Officer.

The delegation of the executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

1.8.2 Where the Leader wishes to transfer the discharge of an executive function that has been previously delegated the Leader must give written notice to the person or body from whom the exercise of the function is to be transferred, the person or body to whom the exercise of the executive function is to be transferred and the Monitoring Officer.

The transfer of the delegation of the executive function will take effect on receipt of the Leader's written notice by each of the parties listed above.

1.8.3 Where the Leader wishes to withdraw the delegation of an executive function that has been delegated and to discharge the executive function personally, the Leader must give written notice to the person or body from whom the exercise of the executive function is to be withdrawn and to the Monitoring Officer.

The withdrawal of the delegation of an executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

1.9 The Monitoring Officer will ensure that the Constitution is updated accordingly where the delegation is to extend beyond six months and will report the new delegation to Full Council at the earliest opportunity.

Place and Time of Cabinet Meetings

1.10 The Cabinet will meet in accordance with the agreed published Calendar of Meetings. Arrangements for an additional extraordinary meeting required in light of circumstances will be agreed by the Leader with the Chief Executive. The Cabinet will meet at one of the Council's anchor buildings or at another location to be agreed by the Leader with the Chief Executive.

Public or Private Meetings of the Cabinet

1.11 The Cabinet will meet in public, subject to the consideration of exempt or confidential information as provided for in the Access to Information Procedure Rules.

Quorum

1.12 The quorum for a meeting of the Cabinet will be three. The quorum for a committee of the Cabinet will be three.

How are Decisions to be Taken by the Cabinet

1.13 The Cabinet will take decisions in accordance with the Access to Information Procedure Rules.

Chairman of Meeting

1.14 If the Leader is present, they will chair the meeting. In their absence, the Deputy Leader will chair the meeting. In the absence of both, another Cabinet member appointed to do so by those Cabinet members present will chair the meeting.

Attendance Rights

1.15 All Cabinet members are entitled to attend meetings of the Cabinet unless the Cabinet determine otherwise. Attendance by other Councillors or the public will be in accordance with the Access to Information Procedure Rules, by invitation, or as set out in the section on Speaking Rights below.

1.16 The Chief Executive, the Chief Finance / Section 151 Officer) and the Monitoring Officer, and their nominees, are entitled to attend any meeting of the Cabinet where a decision is to be made.

Speaking Rights

1.17 The Chair and spokesperson of any of the Council's Overview & Scrutiny Committees or Locality Boards is entitled at any formal public meeting of the Cabinet, to speak on any matter referred to the Cabinet by that body.

1.18 Other Councillors, not previously described above, may also speak at such meetings with the permission of the Leader or person presiding in their absence on any matter which affects their ward.

1.19 At every formal public meeting of the Cabinet there shall be a period of 20 minutes for questions to be put to Cabinet members by Councillors. Notice of these questions is not required in advance of the meeting. The following rules shall apply:

1.19.1 questions must relate to the powers, duties or responsibilities of the Cabinet.

1.19.2 questions put to Cabinet members must relate to their portfolio responsibilities.

1.19.3 the Leader will determine how Cabinet question time should be allocated where there are a number of Councillors wishing to ask questions.

1.19.4 questions will be brief, clear and focussed.

1.19.5 questions which the Leader deems to be:

(a) inappropriate, frivolous, derogatory or vexatious;

(b) will, if answered, disclose confidential or exempt information

(c) relates to a Council employment or staffing matter or is defamatory;

(d) is lengthy or a speech;

(e) is an unintelligible question; or

(f) is in some other respect considered to be out of order, illegal, irregular or improper

will not be allowed.

1.20 Questions will not be allowed which repeat, or which are substantially the same as questions asked at a meeting of Full Council or Cabinet within the preceding 6 months.

1.21 Where any question might be disallowed under the agreed provisions, the Leader, as chair of the Cabinet, will have absolute discretion to determine whether to do so.

1.22 Questions will be asked and answered without discussion. In replying, the Cabinet member responding will use their reasonable endeavours to address the matters raised in the question. The Cabinet member responding may reasonably decline to answer any question or may: reply direct, reply by reference to a publication, or reply by written answer.

1.23 Following each answer, the Leader may permit the questioner to ask a concise and focussed supplementary question which relates to the subject matter of the initial question and answer.

1.24 Where a question relates to a matter which appears on the agenda of the Cabinet meeting in question, the Leader may allow the question to be asked at the beginning of consideration of that item.

1.25 The Cabinet may invite any person to its meetings to discuss matters of mutual interest or concern or to advise. Such persons may only be given access to confidential and/or exempt information on terms to be decided by the Monitoring Officer so as to ensure that the Council's obligations in respect of Access to Information and Data Protection are observed.

Public Speaking

1.26 Members of the public may present petitions and ask questions and make statements at formal meetings of the Cabinet in accordance with the arrangements set out at **Rule 9 and Rule 10** of the Council Procedure Rules and in the Public Participation Scheme adopted by the Council.

Business to be Conducted

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

1.27.1 consideration of the minutes of the last meeting;

1.27.2 declarations of interest, if any;

1.27.3 statements by Cabinet Portfolio holders;

1.27.4 matters referred to the Cabinet (whether by an Overview & Scrutiny Committee or by the Full Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview & Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules;

1.27.5 consideration of any reports from an Overview & Scrutiny Committee; and

1.27.6 matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not.

Integrity of Decision Making

1.28 In taking decisions, the Cabinet must satisfy itself that it has before it adequate and appropriate advice and the Cabinet will take that advice into consideration in determining the matter. The advice will be from the relevant service, the Chief Executive, Monitoring Officer and/or the Chief Finance / Section 151 Officer who shall, where appropriate, be present at any meeting where a decision is being taken.

1.29 Where there is any doubt about the legal basis for the decision, the procedure to be followed or the probity of the matter then advice must be obtained from the Monitoring Officer and the Chief Finance / Section 151 Officer.

Consultation

1.30 All reports to the Cabinet from any Cabinet member or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders (if any) and the relevant Overview & Scrutiny Committee, and the outcome of that consultation.

Rights to Place Items on the Cabinet Agenda

1.31 The Leader will decide upon the schedule for the meetings of the Cabinet. They 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 of it or any member or officer in respect of that matter. The Chief Executive will comply with the Leader's requests in this respect.

1.32 Any Cabinet member may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If they receive such a request the Chief Executive will comply.

1.33 There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by the Full Council or an Overview & Scrutiny Committee for reconsideration and for reports of Overview & Scrutiny Committee.

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

1.35 The Agenda may be supported by additional papers prepared by officers or by or on behalf of other bodies, subject to requirements about disclosure of confidential or exempt information. Full agendas for meetings of the Cabinet will be made available, electronically, in advance of the respective meeting in accordance with the Council's current policy and the Access to Information Procedure Rules.

Part 3 – Section 3 – Access to Information Procedure Rules

1 SCOPE

1.1 These rules cover all meetings of the Council and its committees, sub-committees, advisory panels, the Cabinet (together called meetings) and (where specified) executive decisions made by Cabinet Members and key decisions made by officers.

1.2 These rules also cover Councillors' rights of access to information.

2 ADDITIONAL RIGHTS TO INFORMATION

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

3 RIGHTS TO ATTEND MEETINGS

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

4 NOTICES OF MEETINGS

4.1 The Council will give at least five clear days' notice of any meeting by posting details of the meeting on its website and at its registered office.

4.2 Councillors entitled to attend a meeting, will receive a summons giving five clear working days' notice to attend and specifying the business proposed to be transacted at the meeting. Except in the case of business required by law to be transacted at the Annual Meeting of the Council, or other business brought before the meeting as a matter of urgency in accordance with the Constitution, no business shall be transacted at a meeting other than that specified in the summons.

5 PUBLIC ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on its web site at least five clear days before the meeting, except that where a meeting is convened at shorter notice, the copies of the agenda and reports will be open to inspection from the time the meeting is convened. If an item is added to the agenda later (as an urgent item), the revised agenda will be open to inspection and published on the Council's web site from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Proper Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.

5.2 An item may be added to an agenda after it has been published provided that the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency and the urgency reasons are recorded in the minutes.

5.3 Details of late items and associated report will be made available to Councillors and the public as soon as this is made available for inspection and published on the Council's web site.

5.4 This rule does not require the publication of exempt or confidential information (as defined in rule 10).

6 SUPPLY OF COPIES

6.1 The Council will supply copies to any person of:

6.1.1 any agenda and reports which are open to public inspection;

6.1.2 any further statements or particulars, if any, as are necessary to indicate the nature of the items in the agenda; and

6.1.3 if the Monitoring Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.

6.2 Copies of the digital agendas of Cabinet meetings will be circulated to all Councillors.

6.3 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public.

7 REPORTING OF MEETINGS BY THE PRESS AND PUBLIC

7.1 Any member of the press or public attending a public meeting of the Council may record the proceedings and report them to others. 'Reporting' means filming, photographing, making an audio recording or some other such method of recording proceedings and then reporting or providing a commentary on those proceedings, orally or in writing. A person attending the meeting may use any appropriate communication method, including the Internet, to publish or share the recorded material. This would include the use of social media.

7.2 Any person wishing to record a public meeting is not required to give the Council prior notice although they are encouraged to do so in order that reasonable facilities can be provided.

7.3 No one is entitled to record or report the proceedings of a meeting if the meeting has moved into private session to consider confidential or exempt business. In such circumstances, the public and press would, as now, be required to leave the meeting and to deactivate and/or remove any recording or communications equipment.

7.4 Any person recording or reporting a meeting may not use flash photography or intrusive lighting, or move around the room, or ask any of the participants at the meeting to repeat something they have said. They may not cause excessive noise when installing or moving equipment. They may not give an oral commentary during the meeting. All of these activities would serve to disrupt proceedings and anyone acting in a disruptive manner may be excluded from the meeting.

7.5 Any person recording or reporting a meeting may not film any member of the public who remains in the public gallery.

7.6 Anyone wishing to record or report on meetings should be warned at the outset that the law of defamation will apply, as well as the law relating to public order offences. They should also be reminded that freedom of speech should be exercised with personal and social responsibility, showing respect and tolerance towards the views of others. The Chair or person presiding at the meeting would be expected to give this advice with the support of officers.

8 PUBLIC ACCESS TO MINUTES ETC. AFTER THE MEETING

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

8.1.1 the minutes of the meeting excluding so much of the minutes of proceedings during which the meeting was not open to the public as discloses exempt information (as defined in rule 10);

8.1.2 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;

8.1.3 the agenda for the meeting; and

8.1.4 reports relating to items when the meeting was open to the public.

9 PUBLIC ACCESS TO BACKGROUND PAPERS

List of background papers

9.1 The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

9.1.1 disclose any facts or matters on which the report or an important part of the report is based; and

9.1.2 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 9) and in respect of Executive reports, the advice of a political advisor.

Public inspection of background papers

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

10 EXCLUSION OF ACCESS BY THE PRESS AND PUBLIC TO MEETINGS

Confidential information - requirement to exclude the press and public

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

Exempt information - discretion to exclude press and public

10.2 The press and public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed, provided:

10.2.1 the meeting resolves so to exclude the press and public, and that resolution identifies the proceedings or part of the proceedings to which it applies;

10.2.2 that resolution states, by reference to the descriptions in Schedule 12A to the Local Government Act 1972, the description of the exempt information giving rise to the exclusion of the public; and

10.2.3 that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, that the public interest in maintaining the exemption outweighs the public interest in disclosing the information,

10.3 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 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.

Meaning of confidential information

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

Meaning of exempt information

10.5 Exempt information means information falling within the following descriptions (subject to any qualifications):

	Description	Qualification
1.	Information relating to any individual	Information within paragraph 1 is 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.	Information within paragraph 2 is 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).	Information within paragraph 3 is not exempt information 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;or (f) the Charities Act 2011. Subject to the above, information within paragraph 3 is 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.
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.	Information within paragraph 4 is 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.	Information within paragraph 5 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
6.	Information which reveals that the authority proposes – a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or	Information within paragraph 6 is 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.

	Description	Qualification
	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.	Information within paragraph 7 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.6 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.

11 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

11.1 If the Monitoring 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 "Not for publication" together with the category of information likely to be disclosed.

12 KEY DECISIONS

12.1 Certain executive decisions will be key decisions. Key decisions are defined in the Glossary.

13 APPLICATION OF STANDING ORDERS TO THE CABINET

13.1 Rules 12 – 24 of these Procedure Rules apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a Key Decision then it must also comply with Rules 1 – 11 unless Rule 16 (general exception) or Rule 17 (special urgency) apply.

14 PROCEDURE BEFORE TAKING KEY DECISIONS

14.1 Subject to Rule 16 (general exception) and Rule 17 (special urgency) of these Procedure Rules, a key decision may not be taken unless:

14.1.1 a notice (called here a Forward Plan) has been published in connection with the matter in question;

14.1.2 at least 28 days have elapsed since the publication of the Forward Plan; and

14.1.3 where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings) of these Procedure Rules.

15 THE FORWARD PLAN OF KEY DECISIONS

Period of Forward Plan

15.1 Forward plans will be prepared by the Leader to cover a minimum period of one calendar month (longer where this is possible) beginning with the first day of any month. They will contain outstanding matters from the previous forward plan.

Content of Forward Plan

15.2 The Forward Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet , a Cabinet Member, a committee of the Cabinet, officers or under joint arrangements in the course of the discharge of an executive function

during the period covered by the plan. The Forward Plan must be published at least 28 clear days before the start of the period covered and made available to the Overview & Scrutiny Committee. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

15.2.1 the matter in respect of which a decision is to be made;

15.2.2 where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name and details of membership;

15.2.3 the date on which, or the period within which, the decision will be taken;

15.2.4 the identity of the principal groups whom the decision taker proposes to consult before taking the decision;

15.2.5 the means by which any such consultation is proposed to be undertaken;

15.2.6 the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken;

15.2.7 a list of the documents submitted to the decision taker for consideration in relation to the matter; and

15.2.8 where the decision is to be taken in private the reasons for this.

Publication and availability of Forward Plan

15.3 The Forward Plan will be published on the Council's website and will be made available for inspection at the Council's registered office.

15.4 In respect of meetings to be held in private, the additional requirements of Cabinet Procedure Rules (Notice of Private Meetings of the Cabinet) of this Part 3, Section 2 will apply

16 GENERAL EXCEPTION

16.1 If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 17 (Special Urgency), the decision may still be taken if:

16.1.1 the decision must be taken by such a date that it is impracticable to defer the decision;

16.1.2 the Proper Officer has informed the Chair of a relevant Overview & Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;

16.1.3 The Proper Officer has made copies of that notice available to the public at the registered office of the Council; and

16.1.4 at least 5 clear days have elapsed since the Proper Officer complied their obligations under this paragraph.

16.2 The Council shall publish details of the reasons why it was impracticable to publish a notice of a decision in a Forward Plan in advance of the decision.

17 SPECIAL URGENCY

17.1 If, by virtue of the date by which a decision must be taken, Rule 16 (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

relevant Overview & Scrutiny Committee that the taking of the decision cannot be reasonably deferred and the decision is urgent.

17.2 If there is no Chair of a relevant Overview & Scrutiny Committee, or if the Chair of the relevant Overview & Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice Chair will suffice.

17.3 As soon as reasonably practicable after agreement has been given the decision maker must make available a notice setting out the reasons for urgency and why the decision cannot be reasonably deferred and publish that notice on the Council's website.

18 PROCEDURE PRIOR TO PRIVATE MEETINGS

18.1 A private meeting may not take place unless:

18.1.1 At least 28 clear days before the scheduled meeting a notice (the Forward Plan) has been made available for inspection by the public at the designated office and on the website;

18.1.2 At least 5 clear days before the scheduled meeting a further notice has been made available for inspection by the public at the designated office and on the website which shall include:

(a) a statement of the reasons for the meeting to be held in private;

(b) details of any representations received about why the meeting should be open to the public; and

(c) a statement of the decision-making body's response to any representations received.

18.2 If a private meeting must take place with such urgency that neither the 28 day notice nor the five day further notice requirements can be met, the private meeting may take place if the decision-making body obtains agreement from the chair of the relevant Overview and Scrutiny Committee or, if the chair of that Overview and Scrutiny committee is unable to act, then the agreement of the Chair of the Council will suffice.

19 REPORTS TO COUNCIL

When the Overview & Scrutiny Committee can require a report

19.1 Where an executive decision has been made and was not treated as a key decision and the relevant Overview & Scrutiny Committee thinks that it should have been treated as a key decision the relevant Overview & Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Overview & Scrutiny Committee specifies. The power to require a report rests with the Overview & Scrutiny Committee but is also delegated to the Monitoring Officer who shall require such a report on behalf of the Overview & Scrutiny Committee when so requested by the Chair of the Overview & Scrutiny Committee or any 5 Councillors. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview & Scrutiny Committee.

The Cabinet's report to Council

19.2 The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the resolution of the Overview & Scrutiny Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

Quarterly reports on special urgency decisions

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

20 EXECUTIVE DECISIONS BY INDIVIDUAL CABINET MEMBERS OR OFFICERS

20.1 Where an individual Cabinet Member intends to make an executive decision or an officer intends to make an executive decision that is a key decision, the requirements of rules 12–25 shall apply.

20.2 An executive decision to be made by an individual Cabinet Member, or a key decision by an officer, may then only be taken:

20.2.1 at a time and place that will be agreed with the relevant Director (or nominee) and the relevant report author (or nominee) is in attendance when the decision is taken; and

20.2.2 on consideration of a report by the relevant officer(s), which shall contain as a minimum:

(a) a recommended decision;

(b) a presentation of reasons for the recommendation being put forward

(c) details of any other options considered for recommendation and why those options were rejected;

(d) details of any consultation undertaken or proposed including, in respect of consultation undertaken, the nature and extent of the consultation undertaken with stakeholders and the overview and scrutiny committees and the outcome of that consultation;

(e) a consideration of the financial and legal issues pertaining to the matter, and such other matters as governance chief officers (the head of paid service, s.151 officer or monitoring officer) may require, including risk, staffing or equalities implications; plus

(f) a list compiled of any Background Papers to the report in accordance with Rule 9 above.

20.3 As soon as reasonably practicable after either an executive decision has been made by an individual Cabinet Member or a key decision has been taken by an officer, that Cabinet Member or decision-making officer will prepare, or instruct the Proper Officer to prepare, a written statement to form a Decision Notice to contain:

20.3.1 a record of the decision including the date it was made;

20.3.2 a record of the reasons for the decision;

20.3.3 details of any alternative options considered and rejected by the member when making the decision;

20.3.4 a record of any conflict of interest declared by any councillor who is consulted by the Cabinet Member which relates to the decision; and

20.3.5 in respect of any declared conflict of interest, a note of dispensation granted

20.3.6 This does not require the disclosure of exempt or confidential information, or advice from a political adviser or assistant.

21 NON-KEY DECISIONS MADE BY AN OFFICER

21.1 Where an officer is to make any decision other than a key decision, the decision-making officer shall produce a written statement to form a Decision Notice where that decision would otherwise be taken by the Executive, a Committee of the Cabinet or an individual Cabinet Member, if an executive decision, or would otherwise have been taken by the Council, or a committee, sub-committee of the Council or a joint committee in which the Council participates, but it has been delegated to an officer under delegated powers from one of those decision-making bodies either:

21.1.1 under a specific express authorisation; or

21.1.2 under a general authorisation to officers (a Scheme of Delegation) to take such decisions and the effect of the decision is to—

(a) grant a permission or licence;

(b) affect the rights of an individual except where there are matters that require notice to be served urgently by officers on site in the interests of public safety; or

(c) award a contract or incur expenditure which, in either case, materially affects the Council's financial position, for which purposes is taken to be a financial saving or expenditure of [more than £100,000 (and less than £500,000)] other than expenditure on individual children's or adult social care packages.

21.2 A Decision Notice, or other appropriate form of record where relevant to the form of that decision, to be made by a decision-making officer shall contain a minimum of the following information:

21.2.1 the date the decision was taken;

21.2.2 a record of the decision taken along with reasons for the decision;

21.2.3 details of alternative options, if any, considered and rejected; and

21.2.4 where made under an express delegation, the names of any Member of the relevant delegating body who has declared a conflict of interest in relation to the decision.

22 RECORD OF DECISIONS

22.1 As soon as reasonably practicable after any meeting of the Cabinet or committee of the Cabinet at which an executive decision was made, the Proper Officer will produce a written statement of every decision taken and make it available for inspection by the public at the Council's offices and on the Council's website. The minutes of the meeting will be regarded as the written statement of these decisions

22.2 The statement must include:

22.2.1 a record of the decision including the date it was made

22.2.2 a record of the reasons for the decision

22.2.3 details of any alternative options considered and rejected at the meeting; and

22.2.4 a record of any conflict of interest relating to the matter decided which is declared by an Cabinet Member present at the meeting and, in respect of any declared conflict of interest, a note of any dispensation granted.

22.3 A Decision Notice in respect of:

22.3.1 an executive decision (under Rule 20)

(a) made by a Cabinet Member;

(b) that is a key decision made by an officer; or

22.3.2 a non-key executive decision or other decisions made by an officer (under Rule 21)

will be made available by the Proper Officer for inspection by members of the public, as soon as is reasonably practicable, at the offices of the Council and on the Council's website.

23 OVERVIEW & SCRUTINY COMMITTEE ACCESS TO DOCUMENTS

23.1 Members of the Overview & Scrutiny Committee are entitled to receive documents or any part of a document that contains exempt or confidential information where that information is relevant to an action or decision they are scrutinising or intend to scrutinise.

24 ADDITIONAL RIGHTS OF ACCESS FOR COUNCILLORS

24.1 Members of a committee or decision-making body of the Council or of the Cabinet are automatically provided with, and entitled to receive, copies of confidential or exempt reports of that body.

25 RIGHTS OF COUNCILLORS – "NEED TO KNOW"

25.1 In addition, Councillors will be entitled to access to documents and to attend the confidential part of meetings of Committees and sub-committees and public meetings of the Cabinet (even though they are not a member of those bodies) where they can demonstrate a "need to know" in order to perform their duties as Councillors.

25.2 Subject to Rule 25.3 below, the circumstances where a "need to know" may be treated as arising will include:

25.2.1 Where the matter relates to a sub-committee of a committee of which the Councillor is a member;

25.2.2 Where the matter relates to a committee of the Cabinet where the Councillor is a Cabinet Member:

25.2.3 Where the matter is within the remit of the Audit or Overview & Scrutiny Committee of which the Councillor is a member;

25.2.4 Where the Council is required to approve the decisions or recommendations of committees, sub-committees or the Cabinet;

25.2.5 Where the matter has been delegated to a committee or sub-committee, but significantly affects the reputation of the whole Council;

25.2.6 Where the matter relates specifically to a Councillor's own ward; and

25.2.7 In relation to exempt material within a report on a decision that has been called in for consideration by Overview and Scrutiny Committee and a Councillor has signed a call-in

notice and that Councillor has indicated that they wish to address the Overview and Scrutiny Committee as part of the call-in process.

25.3 There will not be a “need to know” if a Councillor is acting in bad faith or in pursuance of a personal pecuniary or non-pecuniary interest or merely out of curiosity.

25.4 A Councillor wishing to see confidential or exempt Council, committee, sub-committee or Cabinet documents or to attend the confidential part of a meeting should make a written application to the Monitoring Officer giving five clear days’ notice, setting out the reasons and information in support of their claim to have a “need to know”, and why the document and/or attendance at the meeting is necessary in order to enable the Councillor properly to perform their duties.

25.5 The determination as to whether or not a “need to know” has been demonstrated will be made by the Monitoring Officer based on officer advice which may include legal advice.

25.6 Once a determination has been made, this will be communicated to the Councillor who has made the claim.

Part 3 – Section 4 – Budget and Policy Framework Procedure Rules

1 THE FRAMEWORK FOR EXECUTIVE DECISIONS

1.1 The Council will be responsible for the adoption of the budget and policy framework. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

2 PROCESS FOR DEVELOPING THE FRAMEWORK

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

2.1.1 the Cabinet will publicise through the Forward Plan and other methods a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The chairs of Overview and Scrutiny Committees will also be notified.

2.1.2 At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If a relevant Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Overview and Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period.

2.1.3 The Cabinet will take any response from an Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the executive's response.

2.1.4 Once the Cabinet has approved the firm proposals, they shall be referred at the earliest opportunity to the Council for decision.

2.1.5 Where the Cabinet has referred a draft plan or strategy as defined in paragraph 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 ("plan or strategy") to the Council for its consideration and, if following consideration of that draft plan or strategy, the Council has no objections to it, the Council may make a decision which has immediate effect. Otherwise, if the Council has any objections to it, the Council must take the action set out in rule 3 below. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

3 PROCEDURE FOR CONFLICT RESOLUTION - PLANS AND STRATEGIES

3.1 This procedure applies in relation to those plans and strategies forming the policy framework of the Council as set out in **Part 2** of this Constitution and to any plan/strategy for the control of the Council's borrowing and capital expenditure. Rules 3.2 to 3.5 below have been incorporated into these rules as required by the Local Authorities (Standing Orders) (England) Regulations 2001.

3.2 Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in Rule 3.3.

3.3 Subject to 3.6 below, before the Council:

3.3.1 amends the draft plan or strategy;

3.3.2 approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or

3.3.3 adopts (with or without modification) the plan or strategy,

it must inform the Leader of the Council of any objections which it has to the draft plan or strategy and must give to them instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

3.4 Where the Council gives instructions in accordance with Rule 3.3, it must specify a period of at least five working days beginning on the day after the date on which the Leader of the Council receives the instructions on behalf of the Cabinet within which the Leader of the Council may:

3.4.1 submit a revision of the draft plan or strategy as amended by the Cabinet (the "revised draft plan or strategy") with the Executive's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration; or

3.4.2 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.

3.5 When the period specified by the Council, referred to in Rule 3.4 has expired, the Council must, when:

3.5.1 amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;

3.5.2 approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

3.5.3 adopting (with or without modification) the plan or strategy;

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Leader of the Council submitted to the Council, or informed the Council of, within the period specified.

3.6 Where an amendment to a draft plan or strategy has been submitted, the Leader may indicate on behalf of the Cabinet that they accept the amendment. In these circumstances, the amendment will be regarded as incorporated in the draft strategy before Council and not (for the purposes of rule 3.2 to 3.5 above) as an objection to it.

4 PROCEDURE FOR CONFLICT RESOLUTION - REVENUE BUDGET

4.1 This procedure applies to estimates and calculations relating to the revenue budget and Council Tax. Rules 4.2 to 4.5 below have been incorporated into these Standing Orders as required by the Local Authorities (Standing Orders) (England) Regulations 2001. Those paragraphs do not apply to estimates and calculations submitted by the Cabinet to the Council where the estimates and calculations were drawn up by the Cabinet on or after 8th February in any financial year.

4.2 Where, in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:

4.2.1 estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992;

4.2.2 estimates of other amounts to be used for the purposes of such a calculation;

4.2.3 estimates of such a calculation; or

4.2.4 amounts required to be stated in a precept under s40 of the Local Government Finance Act 1992,

And, following consideration of those estimates or amounts, the Council has any objections to them, it must take the action set out in Rule 4.3.

4.3 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in Rule 4.2.1), or issues a precept under s40 of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet 's estimates or amounts and must give to them instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

4.4 Where the Council gives instructions in accordance with Rule 4.3, it must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

4.4.1 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

4.4.2 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.

4.5 When the period specified by the Council, referred to in paragraph 4.4 has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in Rule 4.2.1) take into account:

4.5.1 any amendments to the estimates or amounts that are included in any revised estimates or amounts;

4.5.2 the Cabinet's reasons for those amendments;

4.5.3 any disagreements that the Cabinet has with any of the Council's objections, and

4.5.4 the Cabinet's reasons for that disagreement,

which the Leader submitted to the Council, or informed the Council of, within the period specified.

4.6 Where estimates and calculations are drawn up by the Cabinet on or after 8th February in any financial year and are submitted to the Council for their consideration, the procedure in Rules 4.2 to 4.5 will not apply. In these circumstances the estimates and calculations will be submitted to the Overview & Scrutiny Committee, together with amendments submitted. Where the Overview & Scrutiny Committee has any objection to the estimates and calculations, it will report such objections to the Council, the Leader and the appropriate Cabinet Member. The Leader and/or the appropriate Cabinet Member will report to the Council whether they agree or disagree with any objection of the Overview & Scrutiny Committee.

5 DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

5.1 Subject to the provisions of Rules 6 to 8, the Cabinet, committees of the Executive, individual Cabinet Members and officers may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes 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.

5.2 If the Cabinet, committees of the Cabinet, individual Cabinet Members and officers want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief

Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or 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 policy framework, then the decision must be referred by that body or person to the Council for decision.

6 URGENT DECISIONS OUTSIDE THE POLICY FRAMEWORK

6.1 The Cabinet, a committee of the Cabinet, an individual Cabinet Member or an officer may take a decision which is contrary to the Council's policy framework if the decision is a matter of urgency. However, the decision may only be taken if:

6.1.1 Either the Chief Executive, the Chief Finance Officer or the Monitoring Officer advise in writing that the legal or financial position of the Council or the interests of the Council and/or the Members of the Public of the District would be prejudiced if the matter were not determined before the next scheduled Council meeting;

6.1.2 The Chair of the Overview & Scrutiny Committee (or in their absence the Chair of the Council or, in the absence of both, the Deputy Chair of the Council) agrees that the decision is a matter of urgency; and

6.1.3 It is not practical to convene a quorate meeting of Council.

6.2 The advice of the Chief Executive, Chief Finance Officer or Monitoring Officer and the consent of the Chair of the Overview & Scrutiny Committee (or, if relevant, the Chair of the Council or Deputy Chair of the Council) to the decision being taken as a matter of urgency must be noted on the record of the decision.

6.3 Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it, why it was not practical to convene a quorate meeting of Council and why the decision was treated as a matter of urgency.

7 VIREMENT AND IN-YEAR CHANGES TO THE BUDGET

7.1 The Executive may not determine a matter that is contrary to, or not wholly in accordance with, the authority's budget or the plan or strategy for the time being approved or adopted by the authority in relation to their borrowing or capital expenditure if not authorised by these Rules or by a meeting of the Council

7.2 Steps taken by the Cabinet, a committee of the Cabinet an individual Cabinet Member or an officer to implement Council policy shall not exceed those budgets allocated to each budget heading, subject to Rules 7.3 to 7.5 below.

7.3 Such bodies or individuals shall be entitled to vire across budget headings as following limits

7.3.1 Sums up to and including £250,000 (revenue or capital) may be vired upon the approval of the relevant Chief Officer in consultation with the Chief Finance Officer.

7.3.2 Sums over £250,000 and up to and including £500,000 (revenue or capital) may be vired upon the approval of Cabinet on the recommendation of the relevant Chief Officer and advice of the Chief Finance Officer.

7.3.3 For sums over (more than) £500,000 (revenue or capital) the approval of the Council is required upon recommendation of the Cabinet.

Further detail is set out in the Finance Procedure Rules. Should the limits and provisions recorded above conflict in any way with those set out in the Finance Procedure Rules, these rules as set out in the Budget & Policy Framework Procedure Rules shall prevail.

7.4 The Chief Executive may exercise any of the powers of the Executive under 7.2 and 7.3, in consultation with the Leader, the Executive Councillor for Finance and the Chief Finance Officer where the legal or financial position of the Council or the interests of the Members of the Public of the Council's area would be prejudiced if the matter were not determined before the next scheduled Cabinet meeting. The Chief Executive will report any such decision to the Chair of Overview & Scrutiny and the next meeting of the Cabinet.

8 IN-YEAR CHANGES TO POLICY FRAMEWORK

8.1 The responsibility for agreeing the policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet an individual Cabinet Member or an officer must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes which are necessary to ensure compliance with the law, ministerial direction or government guidance, or where the existing policy document is silent on the matter under consideration.

9 CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

9.1 Where the Overview & 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 it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

9.2 In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every Councillor. Regardless of whether the decision is delegated or not, the Cabinet must consider the report of the relevant officer and decide what action to take in respect of the report. Where the advice concluded that there was a departure from the Budget or Policy Framework, the Cabinet must report to Council on the action it intends taking. Where there was no such departure, the Executive must report to the Overview & Scrutiny Committee on any action to be taken.

9.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview & Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until Council has met and considered the matter. 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:

9.3.1 endorse a decision or proposal of the Cabinet decision taker as falling 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;

9.3.2 amend the Council's Finance Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function 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

9.3.3 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, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer and/or Chief Finance Officer.

Part 3 – Section 5 – Overview and Scrutiny Procedure Rules

1 ESTABLISHMENT AND MEMBERSHIP

1.1 The Council will establish those Overview & Scrutiny Committees set out in Part 2 of this Constitution.

1.2 This will include any Joint Overview & Scrutiny Committees which it has been agreed to establish with Cumberland Council.

2 TERMS OF REFERENCE

2.1 The general and specific role of each Overview & Scrutiny Committee will be as set out in Part 2 of this Constitution.

3 MEETINGS OF THE OVERVIEW & SCRUTINY COMMITTEE

3.1 There shall be at least four ordinary meetings of each Overview & Scrutiny Committee every civic year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An extraordinary Overview & Scrutiny Committee meeting shall be called by the Monitoring Officer at the request of the Chairman of the Overview & Scrutiny Committee, by any four members of the Committee or the Chief Executive. Where the Monitoring Officer declines to call an extraordinary meeting they shall give reasons for doing so.

4 QUORUM

4.1 The quorum for each Overview & Scrutiny Committee will be a third of the membership.

5 WORK PROGRAMME

5.1 The Corporate Overview & Scrutiny Committee will be responsible for reviewing the overall work programme and in doing so they shall take into account the wishes of members on the Committee who are not members of the largest political group on the Full Council.

5.2 The Corporate Overview and Scrutiny Committee will also consider requests from the Full Council and the Cabinet to review particular areas of Council activity. Any findings and any recommendations will be reported back to the Cabinet and/or Full Council. The Full Council and/or the Cabinet shall consider the report of the Overview & Scrutiny Committee at the next available meeting.

6 AGENDA FOR THE OVERVIEW & SCRUTINY COMMITTEE

6.1 Any member of an Overview & Scrutiny Committee shall be entitled to require, in writing, that an item be included on the agenda, provided that the item is within the remit of the Committee in question; the item will then appear on the agenda for the next meeting. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.

6.2 Similarly, the Leader of the Council or a Cabinet member with specific portfolio responsibilities may give notice in writing requiring an item to appear on an agenda of an Overview & Scrutiny Committee, relating to their area of responsibilities. The Committee will decide how the item should be considered and whether or not it can be included in its work programme.

6.3 Subject to the Council Procedure Rules, any other Councillor may give notice in writing to the Monitoring Officer, requesting an item to appear on an agenda of an Overview & Scrutiny Committee. The item shall be included after consulting the Chairman of the relevant Committee.

6.4 On receipt of a notice under Rule 6.1, 6.2 or 6.3, the matter will be included on the agenda for, and discussed at, a meeting of the Committee. Notices under Rule 6.2 must be served no later than 28 days before the meeting at which the matter is to be discussed.

6.5 In considering whether or not to exercise any of its powers in relation to any matter referred under Rule 6.3 the Committee may have regard to any representations made by the Councillor as to why it would be appropriate to exercise any of its powers. If the Committee decides not to exercise any of those powers in relation to the matter, it must notify the Councillor of the decision and the reasons for it.

6.6 Where the Overview & Scrutiny Committee exercises its power to make a report or recommendation to the Full Council or the Cabinet on any matter referred to it by a Councillor under Rule 6.3 the Committee must provide the Councillor with a copy of the report or recommendation (subject to Rule 7).

Policy Review and Budget Development

6.7 The Overview & Scrutiny Committee has a key role in budget development. The Budget and Policy Framework Procedure Rules contains details of the process by which the Overview & Scrutiny Committee may perform that role.

6.8 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Overview & Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

6.9 Overview & Scrutiny Committees may hold enquiries in relation to policy review and may appoint specialists to assist them in this process. They may visit sites, conduct public surveys, hold public meetings, commission research and undertake such other things they consider reasonable and necessary to inform their deliberations. They may call witnesses on any matter under consideration and may pay to any specialists and witnesses a reasonable fee and expenses for doing so within budgetary provision.

7 REPORTS AND RECOMMENDATIONS OF THE OVERVIEW & SCRUTINY COMMITTEE

7.1 This Rule applies where the Overview & Scrutiny Committee makes a report or recommendation to the Full Council or the Cabinet, except in relation to a crime and disorder matter.

7.2 Overview & Scrutiny Committee may publish the report or recommendations.

7.3 The Overview & Scrutiny Committee must by notice in writing require the Full Council or Cabinet:

7.3.1 to consider the report or recommendation;

7.3.2 to respond to the committee indicating what (if any) action the Full Council or Cabinet proposes to take;

7.3.3 if the Committee has published the report or recommendation to publish the response;

7.3.4 if the Committee provided a copy of the report or recommendation to a member under Rule 6.6, to provide the member with the response; and

7.3.5 to do all of the above within two months of receiving the report or recommendations or (if later) the notice.

7.4 It is the duty of the Full Council or Cabinet to which a notice is given under Rule 7.3 to comply with the requirements specified in the notice.

8 REPORTS AND RECOMMENDATIONS – PARTNER AUTHORITIES

8.1 This rule applies where an Overview & Scrutiny Committee makes a report or recommendation to the Full Council or the Cabinet, and the report, or any of the recommendations, relates to a relevant partner authority.

8.2 The Overview & Scrutiny Committee may by notice in writing to the relevant partner authority (accompanied by the report/recommendations) require that authority to have regard to the report or recommendation in question in exercising their functions.

8.3 The relevant partner must comply with the requirement in the notice to have regard to the report/recommendations.

8.4 Publication of reports, Recommendations and Responses

8.5 Where a report or recommendation of an Overview & Scrutiny Committee or response of the Full Council or the Cabinet is published pursuant to Rule 7.2 or 7.3 and is provided to a Councillor or partner authority under Rules 6.6 or 8, any confidential information must be excluded and any relevant exempt information may be excluded in line with the provisions of the Access to Information Procedure Rules.

9 RIGHTS OF THE OVERVIEW & SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

9.1 In addition to their rights as Councillors, members of Overview & Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 3 of this Constitution.

9.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview & Scrutiny Committee as appropriate depending on the particular matter under consideration.

10 RIGHTS OF CABINET MEMBERS

10.1 Subject to the provisions of the Access to Information Procedure Rules and without prejudice to the rights of Cabinet members, Cabinet members may attend meetings of the Overview & Scrutiny Committee including parts of the meeting where exempt items are being discussed and shall be entitled to receive the agenda for the meeting (including exempt matters) and to speak, give evidence and answer questions at the invitation of the Committee.

11 COUNCILLORS AND OFFICERS GIVING ACCOUNT

11.1 An Overview & Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any executive function. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Cabinet member, the Chief Executive and/or any chief officer to attend before it to explain in relation to matters within their remit:

11.1.1 any particular decision or series of decisions;

11.1.2 the extent to which the actions taken implement Council policy; and/or

11.1.3 their performance,

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

11.2 Where, in exceptional circumstances, the Councillor or officer is unable to attend on the required date, then Overview & Scrutiny Committee shall in consultation with the Councillor or officer arrange an alternative date for attendance.

12 ATTENDANCE BY OTHERS

12.1 An Overview & Scrutiny Committee may invite people other than those people referred to in Rule 11 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and may invite such people to attend.

13 CALL-IN

13.1 When a decision is made by the Cabinet, an individual Cabinet member or a committee of the Cabinet, or an executive decision is made by a Locality Board or a key decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the Council's registered office, normally within three days of being made. All Councillors will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

13.2 The record of the decision will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, as from 4.00pm on the fifth day after the day on which the decision was published, unless within this time it is called in for scrutiny ("the call-in period").

13.3 Subject to 13.5 below, a decision may be called-in for scrutiny by the relevant Overview & Scrutiny Committee if the Chairman of the Overview & Scrutiny Committee or any 3 Members of the Council submit a notice in writing to the Chief Executive within the call-in period giving reasons why the decision should be scrutinised.

13.4 The Chief Executive shall then notify the decision-taker of the call-in. Any item which is called-in will be placed on the agenda for the next meeting of the relevant Overview & Scrutiny Committee. If the matter will not wait until the next scheduled meeting the Chief Executive will consider the need to call an additional meeting. The relevant chief officer and/or Cabinet member shall have the right to attend the meeting to explain the reasons for the decision and to respond to comments made at the meeting.

13.5 A decision may not be called-in if the Committee has already made recommendations to the decision-taker and those recommendations have been accepted by the decision-taker either in whole or without significant addition or modification.

13.6 Where a decision has been called-in by three Councillors and none of those Councillors attend, the Committee may, at its discretion, determine not to scrutinise the decision.

13.7 If, having considered the decision, (which consideration must be completed before the next scheduled meeting of the Cabinet) the Overview & Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. Matters should normally only be referred to Full Council if Overview & Scrutiny Committee consider the decision to be contrary to the policy framework of the Council or contrary to or not wholly in accordance with the budget.

13.8 If the decision is referred back to the decision maker they shall then reconsider the decision. The decision maker and may amend the decision or not, before adopting a final decision which will come into force immediately.

13.9 If following an objection to the decision, the Overview & Scrutiny Committee does not either refer the matter back to the decision making person or body or refer the matter to Full Council or determines under 13.6 above not to scrutinise the matter, the decision shall take effect on the date of the Scrutiny meeting.

13.10 If the matter was referred to Full Council and the Full Council does not object to the decision which has been made, then no further action is necessary and the decision will be effective

in accordance with the provision below. However, if the Full Council does object, it has no power to make decisions in respect of executive functions unless the decision is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Full Council will refer any decision to which it objects back to the decision making person or body, together with the Full Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.

13.11 If the Full Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Full Council meeting.

14 CALL-IN AND URGENCY

14.1 The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the legal or financial position of the Council or the interests of the residents of Westmorland and Furness. The record of the decision, and the notice by which it is made public shall state whether in the opinion of the decision making person or body (having considered the advice of the Chief Executive and/or the Monitoring Officer and/or the Chief Finance Officer), the decision is an urgent one, and therefore not subject to call-in. The Chairman of the relevant Overview & Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.

14.2 In the absence of the Chair of the Overview & Scrutiny Committee, the Chair of the Council's consent shall be required. In the absence of both, the Chief Executive or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Full Council, together with the reasons for urgency.

14.3 The operation of the provisions relating to call-in and urgency shall be monitored annually by the Chief Executive, and a report submitted to Full Council with proposals for review if necessary.

14.4 Where a decision is exempted from call-in, it will become effective immediately or (if later) as soon as the agreement of the Chair of the Overview & Scrutiny Committee (or the Chair of the Council or the Chief Executive, if appropriate) has been obtained.

15 REFERENCE OF MATTERS TO OVERVIEW AND SCRUTINY COMMITTEE (COUNCILLOR CALL FOR ACTION)

15.1 Any member of an Overview and Scrutiny Committee may refer to the Committee any matter which is relevant to the functions of the Committee.

15.2 Any Councillor may refer to an Overview and Scrutiny Committee of which the Councillor is not a member any matter which is relevant to the functions of the committee and is not an excluded matter

15.2.1 For these purposes an 'excluded matter' means any matter which is—

(a) a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters); or

(b) any other matter of any description specified in an order made by the Secretary of State for these purposes, including:

(i) any matter relating to a planning decision;

(ii) any matter relating to a licensing decision;

(iii) any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment;

(iv) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee.

15.2.2 In exercising the power which a Councillor has by virtue of this Rule 15.2 in any case, the Councillor, and the Committee in responding, must have regard to any guidance for the time being issued by the Secretary of State.

15.3 The referral by a Councillor is intended to be a process of last resort and therefore a councillor must demonstrate that reasonable steps have been taken to resolve the matter including a response from the Leader or appropriate Cabinet Member and the Head of Paid Service or their nominee. The Councillor referral (Call for Action) will be placed on the agenda of the relevant Overview and Scrutiny Committee.

15.4 It is for the Overview and Scrutiny Committee to determine how it wishes to respond to the Councillor Call for Action and, in the case of refusal to undertake a review, then reasons must be provided.

16 PROCEDURE AT OVERVIEW & SCRUTINY COMMITTEE MEETINGS

16.1 Each Overview & Scrutiny Committee shall consider the following business:

16.1.1 minutes of the last meeting;

16.1.2 declarations of interest (including whipping declarations);

16.1.3 consideration of any matter referred to the Committee for a decision in relation to call in of a decision;

16.1.4 responses of the Cabinet to reports of the Overview & Scrutiny Committee;

16.1.5 a referral to the Committee by a Councillor (Call for Action); and

16.1.6 the business otherwise set out on the agenda for the meeting.

16.2 Where an Overview & Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:

16.2.1 that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

16.2.2 that those assisting the Committee by giving evidence be treated with respect and courtesy; and

16.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

16.3 Following any investigation or review, the Committee shall prepare a report, for submission to the Cabinet and/or Full Council as appropriate and shall make its report and findings public.

Part 3 – Section 6 – Finance Procedure Rules

Reference	Finance Procedure Rules
	Introduction
FPR1	Responsibilities
FPR2	Financial Planning and Annual Estimates
FPR3	Accounting
FPR4	Internal Audit
FPR5	Income
FPR6	Banking Arrangements and Cheques
FPR7	Orders for Goods and Services
FPR8	Payment of Accounts
FPR9	Payment of Employee Related Expenses
FPR10	Imprest and Petty Cash Accounts
FPR11	Risk Management and Insurance
FPR12	Treasury Management
FPR13	Reimbursement of Expenses and Payment of Allowances
FPR14	Security and Control of Assets
FPR15	Payment of Grants and Benefits and Assistance through Loan or Guarantee
FPR16	Record of Contracts for Capital Works
FPR17	External arrangements
FPR18	Housing Revenue Account

INTRODUCTION

1. Section 151 of the Local Government Act 1972 states that “every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”.

2. The officer designated by the Council as having the statutory responsibility set out in Section 151 of the 1972 Act is the Director of Resources and references in these Rules to the Chief Finance Officer or Section 151 Officer are to this officer.

3. Finance Procedure Rules provide the framework for the financial administration of the Council with a view to ensuring that the Council’s financial affairs are conducted in a sound and proper manner, constitute value for money and minimise the risk of legal challenge to the Council. Finance Procedure Rules are not intended to constitute a set of detailed rules to respond to every contingency. The Rules allow for variation in detailed controls between Directorates where justified by local circumstances.

4. All financial decisions and decisions with financial implications must have regard to proper financial control. Any doubt as to the appropriateness of a financial proposal or correctness of a financial action must be clarified in advance of the decision or action with the Chief Finance Officer.

5. Detailed Finance Procedure Notes (FPN’s), Codes of Practice and other financial instructions (e.g. Financial Management System Business Process Procedures) may be issued from time to time by the Chief Finance Officer, where assistance is needed with the interpretation of Finance Procedure Rules.

6. Failure to observe Finance Procedure Rules, Financial Procedure Notes, Codes of Practice and financial instructions issued under Finance Procedure Rules, may result in action under the Council’s disciplinary procedures.

7. All Chief Officers should ensure that any financial procedures/guidelines produced by their Directorate in support of financial control are fully compliant with these Finance Procedure Rules, Financial Procedure Notes, Codes of Practice and financial instructions.

8. These Finance Procedure Rules should be read in conjunction with the Contract Procedure Rules and the Delegation Scheme.

9. The Chief Finance Officer is responsible for maintaining a continuous review of the Finance Procedure Rules and submitting any additions or changes necessary to the full Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of the Finance Procedure Rules to the Council and/or to the Cabinet Members. The Chief Finance Officer is authorised to temporarily suspend Finance Procedure Rules in exceptional circumstances, and where such a suspension is authorised, a written record shall be kept of the reasons for this.

10. A Chief Officer for the purpose of these Rules has the same meaning as in **Part 2** of this Constitution.

NOTE: The financial regulations do not apply to schools.

Please see the **'Westmorland and Furness LA scheme for the financing of schools' (PDF 929kb)** (including the detailed schools financial regulations) which provide the requirements for schools, relating to those matters where decisions have been delegated to school governing bodies.

1 FPR1 – RESPONSIBILITIES

Responsibilities to the Council

1.1 All elected members and employees of the Council are responsible for ensuring that they use the resources and assets entrusted to them in a responsible and lawful manner. They should strive to achieve value for money and avoid legal challenge to the Council.

1.2 These responsibilities apply equally to Members and employees when representing the Council on outside bodies.

Personal Responsibilities

1.3 Any person charged with the use or care of the Council's resources and assets should inform themself of the Council's requirements under Finance Procedure Rules. If anyone is in any doubt as to their obligations, then they should seek advice. Unresolved questions of interpretation should be referred to the Chief Finance Officer.

1.4 Council employees or agency workers contracted with the Council must report immediately to their manager, supervisor or other responsible senior officer any illegality, impropriety, serious breach of procedure, suspected financial irregularity or serious deficiency in the provision of service they suspects or becomes aware of. Employees or agency workers contracted with the Council are able to do this without fear of recrimination providing they act in good faith and in accordance with the Council's Whistle Blowing policy. In such circumstances managers must record and investigate such reports, after taking advice and guidance from the Assistant Director of HR/OD. Following this, managers must ensure that appropriate action is taken.

Chief Finance Officer

1.5 Section 114 of the Local Government Finance Act 1988 (the "1**988 Act**") requires the Chief Finance Officer to report to the full Council, executive and external auditor if the Council or one of its officers:

1.5.1 has made, or is about to make, a decision which involves or would involve the Council incurring expenditure which is unlawful;

1.5.2 has taken, or is about to take, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council;

1.5.3 is about to enter an item of account the entry of which is unlawful,

or the expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

1.6 Section 114 of the 1988 Act also requires:

1.6.1 the Chief Finance Officer to nominate a properly qualified member of staff to deputise should they be unable to perform the duties under section 114 personally;

1.6.2 the authority to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

1.7 Reference to the Chief Finance Officer in these Rules includes those authorised by them to undertake the various functions concerned.

1.8 The Chief Finance Officer, shall maintain on behalf of the Council an adequate and effective system of internal audit of the accounting records and internal control systems of the Council.

Chief Legal and Monitoring Officer

1.9 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and therefore provides support to the Standards and Governance Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the Council and/or to the Cabinet and for ensuring that procedures for recording and reporting 'key decisions' are operating effectively.

1.10 The Monitoring Officer must ensure that the Cabinet decisions and the reasons for them are made public. He or she must also ensure that Members are aware of decisions made by the Cabinet and of those made by Officers who have delegated executive responsibility;

1.11 The Monitoring Officer is responsible for advising all Members and Officers about who has authority to take a particular decision;

1.12 The Monitoring Officer is responsible for advising the Cabinet or the Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework or which becomes a key decision;

1.13 The Monitoring Officer in consultation with the Chief Financial Officer is responsible for advising the Cabinet or the Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. Actions that may be contrary to the budget include;

1.13.1 initiating new policies and commitments

1.13.2 committing expenditure in year and in future years above budget

1.13.3 budget or spending transfers above virement limits.

1.14 The Monitoring Officer is responsible for maintaining an up-to-date Constitution.

Chief Officer with responsibility for Human Resource Services

1.15 The Director of Enabler Services, as the Chief Officer with responsibility for human resource services, in consultation with the Chief Finance Officer, shall ensure:

1.15.1 all employees are paid in accordance with their Contract of Employment, and ensure leavers are removed from the payroll; and1.15.2 reimbursement and levels of allowances and expenses to staff and members is in accordance with the appropriate agreements and legislation.

Chief Officers

1.16 Chief Officers are responsible for ensuring that Finance Procedure Rules are observed throughout all areas under their control and shall:1.16.1 provide the Chief Finance Officer with such information and explanations as the Chief Finance Officer feels is necessary to meet their obligations under Finance Procedure Rules;

1.16.2 consult with the Chief Finance Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred;

1.16.3 ensure that Cabinet Members are advised of the financial implications of all significant proposals and that the financial implications have been agreed by the Chief Finance Officer;

1.16.4 inform the Chief Finance Officer of failures of financial control resulting in additional expenditure or liability, or loss of income or assets;

1.16.5 wherever any matter arises which may involve irregularities in financial or stores transactions consult with the Chief Finance Officer and, if a serious irregularity is confirmed, the matter shall be reported to the Chief Executive, Chief Legal and Monitoring Officer, appropriate Cabinet Member and the Director of Enabler Services.

1.16.6 ensure the legality of their Directorate's or service's actions.

1.16.7 All Chief Officers should ensure that any financial procedures/guidelines produced by their Directorate in support of financial control are fully compliant with these Finance Procedure Rules, Financial Procedure Notes, Codes of Practice and financial instruction.

1.16.8 Chief Officers are responsible for ensuring that all staff in their Directorate are aware of the existence and content of the Council's Finance Procedure Rules and other internal regulatory documents and that they comply with them.

2 FPR2 – FINANCIAL PLANNING AND ANNUAL ESTIMATES

2.1 The Chief Finance Officer shall, each year, recommend to the Cabinet a programme for consideration of revenue and capital estimates by Directorates, the Cabinet and the Council. The programme is to include adequate time for such discussions as may from time to time be required. The form of the annual estimates shall be agreed by the Cabinet upon the recommendation of the Chief Finance Officer.

2.2 Detailed estimates of income and expenditure on Revenue Account and receipts and payments on Capital Programme shall be prepared each year by Chief Officers in the form required by the Cabinet. The Estimates will be in line with the Council Plan and policy framework and will follow the guidelines issued annually by the Chief Finance Officer. A copy of the Estimates shall be forwarded to the Chief Finance Officer by each Chief Officer in accordance with the agreed programme in order that they can be examined and submitted to the Cabinet.

2.3 The Cabinet shall review the Estimates and submit them to the Council together with such summaries, statements and reports as are considered desirable and shall recommend the Council Tax to be levied for the ensuing year.

2.4 Whenever it is necessary to approve an estimate for any proposed Council Tax a special meeting of the Council shall be held for the purpose of considering, determining and adopting such estimate. At that meeting the Council may also determine the Council Tax and pass all necessary resolutions to give effect to its determination and collection.

2.5 At that meeting the Chief Finance Officer of the Council must report to it on the following matters:

2.5.1 the robustness of the estimates made for the purposes of the calculations, and

2.5.2 the adequacy of the proposed financial reserves.

The Council shall have regard to the report when making decisions about the calculations in connection with which it is made.

2.6 No levy shall be imposed by the Council unless the notice convening the meeting shall show the Council Tax or levy which will be moved.

2.7 The Council shall:

2.7.1 approve the Council's revenue budget and capital programme and set the level of Council Tax for each year within statutory deadlines and requirements.

Revenue Budget Preparation

2.8 The Cabinet shall keep under review the Medium-Term Financial position of the Council taking into account the Council's service plans and anticipated future levels of capital and revenue resources.

2.9 Each Chief Officer shall, in accordance with the agreed programme and in conjunction with the Chief Finance Officer prepare revenue estimates forecasts for consideration by the Cabinet. In doing so each Chief Officer should ensure that the estimated expenditure on, or cost of any proposals submitted by them, either in their annual estimates or at any time during the subsequent financial year, to the Cabinet and/or the Council shall be as complete and accurate as possible and include provision for all running costs, salaries and wages and any other outgoings involved by or in connection with the proposal.

2.10 In the case of proposals involving capital expenditure, the funding of the proposal must be identified together with the full financial implications, including where available those relating to whole life costing.

Revenue Budgetary Control

2.11 In accordance with the Council's Scheme of Delegation, Chief Officers have powers to incur revenue expenditure in carrying out the functions allocated to them provided:

2.11.1 the expenditure is within the law;

2.11.2 Contract Procedure Rules on procurement have been complied with;

2.11.3 expenditure is within the approved revenue budget or capital programme provision;

2.11.4 expenditure is consistent with Council policy.

2.12 Nothing in these Rules shall prevent a Chief Officer incurring expenditure essential to meet the needs of an emergency or which is referable to Section 138 of the Local Government Act 1972, subject to their action being reported at the earliest opportunity to the Cabinet and where appropriate to the Council.

2.13 The Cabinet shall exercise control over revenue spending and income and may authorise variations to the Council's Budget within the year in accordance with the virement limits contained in the Council's Budget & Policy Framework Procedure Rules.

2.14 To enable the Cabinet to exercise control over revenue spending, the Chief Finance Officer shall report to Cabinet on a quarterly basis a comparison of revenue expenditure and income against budget and on a monthly basis to Corporate Management Team.

2.15 Each Chief Officer in charge of a revenue budget shall:

2.15.1 monitor and control Directorate expenditure within their approved budget;

2.15.2 report progress against their budget to the Cabinet in consultation with the Chief Finance Officer; and

2.15.3 keep the Chief Finance Officer informed of any actual or likely changes which will/may have a significant impact on current or future budgets, including any potential overspending or under-achievement of income budgets in a timely manner.

2.16 The Chief Finance Officer shall also provide guidance on and co-ordinate the budget monitoring process including the form, basis, supporting information and timetable for preparation.

Virement (or transfers) Between Budgets

2.17 Chief Officers must fulfil the following requirements to exercise virement:

2.17.1 virement should only apply to the transfer of funds within the delegated budget of the Chief Officer;

2.17.2 the proposals should be consistent with approved Council policy;

2.17.3 virement should not involve the transfer of funds between directorates;

2.17.4 there will be no virement between the General Fund and the ring fenced HRA account;

2.17.5 virement should only be allowed where the total net delegated budget is still within the delegated costs limit; and

2.17.6 there should be no consequential revenue effects in later years.

2.18 Should virement be requested which is contrary to one of the above conditions, it is necessary to seek the prior approval of the Chief Finance Officer.

2.19 Virement limits as between the Cabinet and the Council are set out in Budget & Policy Framework Procedure Rules. Expenditure other than within these rules, that is contrary to, or not wholly in accordance with the Authority's Budget not otherwise authorised by the Council's Constitution, will require the approval of full Council before it may take place.

2.20 The virement limits as set out in the set out in Budget & Policy Framework Procedure Rules as:

2.20.1 Sums up to and including £250,000 (revenue or capital) may be vired upon the approval of the relevant Chief Officer in consultation with the Chief Finance Officer.

2.20.2 Sums over £250,000 and up to and including £500,000 (revenue or capital) may be vired upon the approval of Cabinet on the recommendation of the relevant Chief Officer and advice of the Chief Finance Officer.

2.20.3 For sums over (more than) £500,000(revenue or capital) the approval of the Council is required upon recommendation of the Cabinet.

Should the limits and provisions recorded above conflict in any way with those set out in the Budget & Policy Framework Procedure Rules, those rules set out in the Budget & Policy Framework Procedure Rules shall prevail.

Capital Programme Development

2.21 Each Chief Officer in conjunction with the Chief Finance Officer shall draw up proposals for capital expenditure for their Directorate, taking into account:

2.21.1 statutory requirements;

2.21.2 service plans;

2.21.3 supported capital expenditure guidelines issued by Central Government including available resources;

2.21.4 Government and other funding body capital grants and specific borrowing approvals, availability of capital receipts, other resources - including internal resources;

2.21.5 level of existing capital commitments.

2.22 The Chief Officer shall ensure that for each capital scheme an option appraisal is completed outlining the business case and giving a full appraisal of the capital and revenue implications, including those relating to whole life costing where available, to ensure all schemes are fully evaluated and disclosed.

2.23 The proposals for capital spending, together with financial implications will then be approved by the Chief Finance Officer in consultation with the appropriate Portfolio Holder and then submitted to the Cabinet for determination of the Capital programme to be recommended to Council subject to resources being available.

2.24 Where new projects are brought into the programme and are funded from external grant for a specific purpose Cabinet can approve the scheme to be included in the capital programme.

Capital Programme Monitoring and Budgetary Control Arrangements

2.25 The Cabinet shall exercise control over capital spending and resources and may authorise variations to the Council's Capital Programme provided such variations:

2.25.1 are within available resources and

2.25.2 are consistent with Council policy.

2.26 To enable Cabinet to exercise control over capital spending, the Chief Finance Officer will report to Cabinet quarterly with a review of the latest Capital Programme position.

2.27 Where projects in the Capital Programme are included on the assumption of resources becoming available, no financial commitments should be entered into on these projects unless resources are confirmed as being available to the satisfaction of the Chief Finance Officer. In the case where joint schemes are entered into by one Chief Officer that will impact on another Chief Officer's Directorate, a full consultation process must be completed before expenditure is incurred.

2.28 Chief Officers shall:

2.28.1 make arrangements for the implementation of the agreed Capital Programme in accordance with the Contract Procedure Rules;

2.28.2 monitor progress of spending and realisation of funding against the Capital Programme; and

2.28.3 review and update costings and phasing of projects and programmes as appropriate.

2.29 In the event that project costs are at variance with programme, either in terms of cash flow or in total, the Chief Officer should seek to bring the scheme in line with the programme or, if that should not prove possible, should attempt to contain variances within the overall programme for which the Chief Officer is responsible.

2.30 The Chief Finance Officer must be consulted where significant variances to the Capital Programme are in prospect. Should the Chief Officer be unable to accommodate variations in expenditure within the approved Capital Programme, sums up to and including £250,000 may be vired between schemes upon approval of the relevant Chief Officer in consultation with the Chief Finance Officer. Virements between schemes over £250,000 and up to and including £500,000 will require approval of Cabinet and virements over £500,000 require the approval of Council, all are subject to appropriate resources being available.

2.31 Where there is a requirement for reprofiling between financial years (including accelerated spend or slippage) this will be reported to Cabinet as part of the quarterly monitoring reporting and approved by Cabinet where it is up to and including £500,000 and will require the approval of Council if it is over £500,000.

Reserves and contingencies

2.32 Section 25 of the Local Government Act 2003 places a duty on the Chief Finance Officer / Section 151 to report to Council about whether the proposed reserves will be enough for the Council's purposes and support the budget. This includes general reserves and reserves earmarked for specified purposes.

2.33 Cabinet has the authority to agree transfers to earmarked reserves. Transfers from earmarked reserves are agreed by the Chief Finance Officer providing the transfer is for the purpose which earmarking was agreed by Cabinet.

2.34 Request for earmarked reserves will be submitted by Directors to the Chief Finance Officer for consideration before recommending to Cabinet.

2.35 When requested and in any event, always at the financial year end, Chief Officers will provide the Chief Finance Officer with a statement of earmarked reserve balances held and movements therein. The Chief Finance Officer will consider the continuing relevance and adequacy of reserves (Earmarked and General Fund) and make recommendations to Cabinet and Council.

2.36 Transfers from contingencies to revenue budgets require the approval of the Chief Finance Officer.

Locality Board Budgets

2.37 Each Locality Board will be delegated appropriate budgets as approved by Cabinet and agreed as part of the annual budget (revenue and capital) approved by Council and will work within the limitations of the guidance for the use of those budgets issued by Cabinet.

3 FPR3 – ACCOUNTING

3.1 The Chief Finance Officer shall:

3.1.1 determine accounting systems and procedures and the form of financial records and statements;

3.1.2 provide guidance and advice on all accounting matters;

3.1.3 monitor accounting performance to ensure an adequate standard for all services; and

3.1.4 certify all financial returns, grant funding applications and claims and other periodic financial reports required of the Council.

3.2 Each Chief Officer shall:

3.2.1 implement accounting procedures and adopt the form of financial records and statements as determined by the Chief Finance Officer;

3.2.2 obtain the approval of the Chief Finance Officer prior to introducing or changing the form or method of existing accounting systems and procedures, financial records or statements. Approval is to be requested from the Chief Finance Officer in writing. The request must give details of the proposed change and the anticipated benefit from the change, an estimate of the costs involved and the proposed implementation date.

3.2.3 complete and pass to the Chief Finance Officer financial returns and other financial reports requiring certification in good time; and

3.2.4 keep a proper separation of duties for staff with financial responsibilities.

3.3 The Chief Finance Officer shall be responsible, through staff under their control, for the keeping of the financial accounts of all Directorates of the Council. All accounting procedures shall be determined by the Chief Finance Officer, but where such records are maintained in a Directorate other than that of the Chief Finance Officer, they will consult with the Chief Officer concerned. Where agreement is not reached, the matter shall be referred to the Chief Executive.

3.4 The following principles shall be observed in connection with accounting systems:

3.4.1 the duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums shall be separated as completely as possible from the duty of collecting or disbursing them;

3.4.2 officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

3.5 The Chief Finance Officer is responsible for ensuring that the annual statement of accounts (including Pension Fund accounts) is prepared in accordance with proper practices as set out in the Code of Practice on Local Authority Accounting in the UK and regulations. The Section 151 officer will sign and date the statement of accounts, stating that it gives a 'true and fair' view of the financial position and transactions of the Council. Including group financial statements where the Council has material interests in subsidiaries, associates or joint ventures.

3.6 The Audit Committee is responsible for approving the annual statement of accounts by the statutory deadline, and to receive reports from the external auditor relating to any material issues relating to the Accounts.

4 FPR4 – INTERNAL AUDIT

4.1 Internal Audit is an independent appraisal function established by the Council under the requirements of the Accounts and Audit Regulations 2015 under the independent control and direction of theChief Finance / Section 151 Officer.

4.2 The prime objective of Internal Audit is to provide assurance to the Council in relation to the internal control environment and assist management in delivering Council objectives through assessing exposure to risk and recommending where appropriate, practical improvements to the control environment.

4.3 It is the responsibility of Internal Audit to review, appraise and report to management upon:

4.3.1 whether operations are being carried out as planned and objectives and goals are being met;

4.3.2 the adequacy of systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e. rules established by the management of the organisation, or externally;

4.3.3 the completeness, reliability and integrity of information, both financial and operational;

4.3.4 the extent to which the Council's assets, data and interests are properly accounted for and safeguarded from losses of all kinds, including fraud, corruption, waste, extravagance, abuse, ineffective management and poor value for money; and

4.3.5 the economy, efficiency and effectiveness with which resources are employed.

4.4 Internal Audit is required to provide an objective audit service in line with the Public Sector Internal Audit Standards and professional auditing standards. To this end Internal Audit will have no executive responsibilities and the Head of Internal Audit will have direct access to, and freedom to report to, all senior management including the Chief Finance Officer, Chief Legal and Monitoring Officer, Chief Executive and the Audit Committee.

4.5 The Head of Internal Audit will have the freedom to determine the priorities for Internal Audit in consultation with the Chief Finance Officer, Chief Officers and the Audit Committee, and will have an unrestricted range of coverage of the Council's and associated LA Controlled Companies' operations.

4.6 Internal Audit shall have access to all officers, buildings, information, explanations and documentation required to discharge the audit role.

4.7 This includes not only the Council, but also:

4.7.1 organisations to whom the Council has given grants;

4.7.2 organisations where Council Services are delivered through contracts / agreement with third parties, including LA Controlled Companies and where the Council is the Lead or Accountable Body.

Chief Officers shall ensure that these rights of access are written into the appropriate agreements with these organisations.

4.8 All material findings will be communicated to the relevant Directorate management and, once agreed, a final report will be provided to the Chief Officer and, where appropriate, the Chief Finance Officer. Management is expected to implement all agreed audit recommendations within a reasonable timeframe and should put in place arrangements to monitor progress of implementation. Internal Audit will undertake appropriate follow up work in this regard. Management is expected to implement all agreed audit recommendations within a reasonable time frame and should put in place arrangements to monitor progress of implementation.

4.9 The Head of Internal Audit, in consultation with the Chief Finance Officer, shall:

4.9.1 provide an annual opinion to the Audit Committee on the adequacy of the Council's overall internal control arrangements;

4.9.2 report material failures of financial control to the Chief Finance Officer, the Chair of the Audit Committee and the appropriate Cabinet Member Portfolio Holder and Chief Officer; and

4.9.3 where evidence of fraud, misappropriation or theft is discovered, decide, after consultation with the Chief Finance officer and relevant Chief Officer(s), whether to refer the matter to the Police in accordance with the Council's Anti-Fraud, Bribery and Corruption Policy/Strategy

4.10 Each Chief Officer shall:

4.10.1 respond without undue delay to any enquiries or recommendations made by the Head of Internal Audit.

4.10.2 inform the Head of Internal Audit as soon as possible of failures of financial control, including matters which involve, or may involve, financial irregularity.

4.11 The Head of Internal Audit and each Chief Officer jointly shall investigate failures of financial control, including matters which involve, or may involve, financial irregularity in accordance with the Council's Anti-Fraud, Bribery and Corruption Policy/Strategy.

4.12 If serious irregularity is confirmed the matter shall be reported to the Chief Executive, Chief Finance Officer and/or Chief Legal and Monitoring Officer (as appropriate), the appropriate Chief Officer and, where staff are involved, the Director of Enabler Services and the Assistant Director of HR/OD.

5 FPR5 – INCOME

The objective of this Finance Procedure Rule is to ensure that all income due to the Council is collected, banked and properly accounted for. This includes sums received by electronic means such as debit/credit cards, internet, telephone and direct debits.

5.1 The collection of all sums due to the Council shall be under the supervision of the Chief Finance Officer. In conjunction with the Chief Officer of the Directorate concerned or the appropriate officer of any third-party collecting sums on behalf of the Council. The Chief Finance Officer shall make and maintain adequate arrangements for prompt and proper accounting for all income received including the collection and deposit of such sums.

5.2 Details of all charges to be made for work, services, or goods supplied by the various Directorates of the Council, and of all other amounts due, shall be promptly notified to the Chief Finance Officer in a format approved by them. All income due to the Council shall be collected by the Chief Finance Officer, subject to any other arrangements they approve. The basis and level of fees and charges must be reviewed by Chief Officers on, at least, an annual basis.

5.3 The Chief Finance Officer shall be consulted on any proposal for the introduction of, or a variation in, a scale of charges, other than those agreed at National or Regional level. Where the source of income is a new one the collection arrangements shall be agreed with the Chief Finance Officer and the sums anticipated shall be notified to them. Where Chief Officers introduce new fees and charges, which result in a change in policy, such charges shall be referred to Cabinet for approval.

5.4 All sums received by either:

5.4.1 Cashier; or

5.4.2 other person/ third Party authorised by a Chief Officer to collect sums due to the Council

shall be immediately acknowledged, by the issue of a receipt or ticket or by other method agreed by the Chief Finance Officer. Payments by other methods need not be acknowledged unless requested.

5.5 Every transfer of official money from one member of staff to another shall be immediately evidenced in the records by the signature of the receiving officer.

5.6 All money received on behalf of the Council shall be held securely and paid to the Chief Finance Officer or, as he may direct, to the Council's bankers.

5.7 Payment/banking shall be at least weekly, unless otherwise agreed by the Chief Finance Officer.

5.8 Where payment/banking amounts in hand exceed £1,000 or the insurance limit, whichever is the lesser, they shall be paid over immediately, unless there is an agreed collection schedule arranged with the Council's Security Services.

5.9 Where an agreed collection schedule is arranged with the Council's Security Services Chief Officers must ensure, by liaison with the Risk Management and Insurance Section, that the insurance limit on their safe is adequate to cover the value of monies received and held. No

deductions may be made from such money except as expressly authorised by the Chief Finance Officer. The Chief Finance Officer shall, not later than the next following business day after receipt, pay to the Council's bankers all monies received by him.

5.10 Each officer who pays in money on behalf of the Council shall enter on the pay-in slip and duplicate or counterfoil, particulars of such payment, including in the case of each cheque paid in:

5.10.1 the amount of the cheque;

5.10.2 the invoice/account number if one exists;

5.10.3 if an account/invoice number does not exist then a reference (such as the number of the receipt given, or the name and/or address of the debtor), which will connect the cheque with the debt for which it was received.

5.11 Each officer shall also provide no later than the following working day, particulars of each payment to the Chief Finance Officer.

5.12 Chief Officers must ensure that levels of income received are compared to budget figures of income due on a regular basis and differences promptly investigated.

5.13 The advice of the Chief Finance Officer must be sought on agreements which provide for variable income.

5.14 Wherever possible/practical income should be collected in advance of service, or where this is not possible, by an official invoice.

5.15 Apart from those income streams specifically excluded by the Chief Finance Officer (in particular, local taxes and housing rents) accounts for sums due may only be raised on the Council's corporate Accounts Receivable system unless alternative arrangements have been approved by the Chief Finance Officer.

5.16 Arrangements for payment by instalment must be authorised by the Chief Finance Officer.

5.17 Unused manual receipts, tickets or vouchers must be held securely at all times. A record of stocks held must be kept and blank receipt books/unused tickets must only be issued to staff on receipt of their signature in the stock record. Staff holding individual receipt books/ticket books must keep them in a secure manner. Chief Officers must ensure that a regular independent reconciliation is carried out of stock records to physical stocks held.

5.18 Security and retention of safe keys must be in accordance with the dictates of the Council's Insurers. Advice on this matter should be sought from the Insurance Section.

5.19 Written authorisation of the Chief Finance Officer must be obtained before uncollected income due is written off.

5.20 Personal cheques must not be cashed out of money held on behalf of the Council unless they are cheques drawn on the Council's bank account and express authority of the Chief Finance Officer has been given to such action.

5.21 **Revenues and Taxation**

The Chief Finance Officer is responsible for:

5.21.1 Setting the Council Tax Base.

5.21.2 Calculating the Council Tax Requirement.

5.21.3 Calculating the Council Tax as required by legislation; by Parish and by Band.

5.21.4 The award of mandatory or discretionary, exemptions, disregards and discounts.

5.21.5 Council Tax billing.

5.21.6 The collection and recovery of Council Tax due.

5.21.7 Applying any applicable or relevant changes in the Housing Benefit Regulations to the Local Council Tax Reduction Scheme.

5.21.8 Determining, assessing, awarding and paying Housing Benefit and Council Tax Support.

5.21.9 Dealing with all matters relating to the Business Rate Retention Scheme and agency arrangements, including billing, collection, recovery and the award of mandatory or discretionary, exemptions and reliefs.

5.21.10 Determining membership of the Cumbria Business Rate Pool.

5.21.11 Payment of precept demands.

5.21.12 To maintain the list of employees authorised to represent the Council in the Magistrates Court as Chief Finance Officer to deal with local taxation matters.

Business Improvement Districts (BID)

5.22 The Chief Finance Officer is responsible for:

5.22.1 BID levy billing.

5.22.2 The collection and recovery of BID levy due.

5.22.3 Payment of the levy collected to the BID.

5.22.4 Recovering the cost of administering the BID and collection process.

Debt Write Off

5.23 The Chief Finance Officer is responsible for maintaining records of debts raised and notified by Directors for collection, and is also responsible (together with Directors where such tasks may have been delegated), for subsequent recovery of debts.

5.24 Chief Officers will provide the Chief Finance Officer and/or the Chief Legal and Monitoring Officer with all information required for the collection of debts. The Chief Legal and Monitoring Officer in consultation with the relevant Director, will institute, defend, settle or compromise on behalf of the Council.

5.25 Chief Officers will provide the Chief Finance Officer with information required to report on the collection of income and debt, in the format and timescales agreed by the Chief Finance Officer. Chief Officers will keep records of all write off of debt in a form approved by the Chief Finance Officer.

5.26 Chief Officers, with the approval of the Chief Finance Officer and Chief Legal and Monitoring Officer will write off debts up to an amount of £250,000 for any one item in respect of:

5.26.1 Losses arising when property of the Council is lost, stolen, damaged or destroyed and the loss is not recoverable from insurance or other sources

5.26.2 Losses upon disposal of stock at a price less than the book value at the time of disposal: and

5.26.3 money due to the Council which has become irrecoverable or is thought no longer cost effective to recover.

Provided in each case that proper steps have been taken to mitigate the loss in accordance with the Debt Recovery Policy and steps taken to prevent a recurrence.

For Write off of debts above the amount of £250,000 Cabinet approval is required.

5.27 Directors and their staff do not have the authority to write off salary and allowances overpayments without going through the formal write-off procedure as stated above.

VAT

5.28 Chief Officers will ensure that, where applicable, VAT is charged in calculating any income due.in accordance with FPR5. Chief Officers will seek advice on VAT from the Chief Finance Officer when required.

5.29 The Chief Finance Officer is responsible for ensuring income is recorded in the Council's corporate financial systems. Directors will ensure that all income is accurately recorded against the correct budget.

6 FPR6 – BANKING ARRANGEMENTS AND CHEQUES

The objective of this Financial Procedure Rule is to ensure sound banking and payments arrangements by limiting responsibility for this to the Chief Finance Officer.

6.1 All arrangements with the Council's bankers shall be made by or under arrangements approved by the Chief Finance Officer who shall be authorised to operate such banking accounts as they may consider necessary. No bank accounts or similar may be opened without the consent of the Chief Finance Officer. The maintenance of Council bank accounts shall be in accordance with arrangements determined by the Chief Finance Officer.

6.2 The Chief Finance Officer shall be responsible for making all arrangements in connection with electronic payment and collection of monies and shall ensure that adequate security exists within these arrangements to prevent loss due to error or fraud.

6.3 All cheques, and other orders for payment shall bear the facsimile signature of the Chief Finance Officer, or be signed by the Chief Finance Officer or other officers so authorised.

6.4 All cheques shall be ordered only on the authority of the Chief Finance Officer who shall make proper arrangements for their custody.

6.5 The approval of the Chief Finance Officer must be obtained for any proposal to enter into a credit agreement.

6.6 The approval of the Chief Finance Officer must be obtained to pay for goods or services through a Direct Debit agreement.

7 FPR7 – ORDERS FOR GOODS WORKS AND SERVICES

The objective of this Financial Procedure Rule is to ensure that works, goods and services are only ordered for the purposes of Council business and that the resulting expenditure is within budget and properly approved.

7.1 Each Chief Officer shall be responsible for all orders requisitions from their Directorate for goods, work or services. Official orders shall be issued for all work, goods or services to be

supplied to the Council, except periodical payments, petty cash purchases or such other exceptions as may be approved. Before orders are made the authorised officer must ensure:

7.1.1 that there is adequate budget provision before committing expenditure and ensure any necessary Chief Officer or Cabinet approvals are obtained; and

7.1.2 any necessary Chief Officer or Cabinet approvals have been obtained as set out in the Council's Contract Procedure Rules on procurement.

7.2 If goods are to be ordered on behalf of another Directorate then a written requisition must be received from the Chief Officer of that Directorate, authorised by them or one of their nominated officers.

7.3 Orders must be made in advance of receiving goods/services using systems approved by the Chief Finance Officer, unless otherwise agreed and conform with the Council's purchasing procedures.

7.4 Each order shall conform with the policies of the Council with respect to procurement and any standardisation of supplies and materials.

7.5 Whenever practicable, the duties of ordering, receiving goods and certifying invoices (where not electronically matched) for payment shall not be performed by one officer.

7.6 A list of officers nominated to approve the ordering of goods must be maintained and utilised by each Directorate and a sample of their signature must be maintained and utilised where an approved electronic workflow is not used.

7.7 Before orders are made the Chief Officer or designated Officer must assure themselves of the following:

7.7.1 prices are in accordance with the agreement, any price list provided by Corporate Procurement, contract, quotation or current market rate, whichever is applicable;

7.7.2 the order is in accordance with the Council's policy and instructions and complies with the Council's Contract Procedure Rules on Procurement.

7.7.3 the expenditure is within the amount provided by annual estimates or approved supplementary estimate; that it has been charged in the financial year in which the work is done, or the goods received, irrespective of the year in which provision has been made in annual estimates;

7.7.4 the order is correctly coded;

7.7.5 the order is approved by a nominated officer;

7.7.6 notification of goods/services received or amendments to orders e.g. quantity/price should be completed promptly using a form agreed by the Chief Finance Officer to ensure invoices are not blocked for payment and suppliers are paid on time.

8 FPR8 – PAYMENT OF ACCOUNTS

The purpose of this Finance Procedure Rule is to ensure that all payments made by the Council are:

a) lawful;

b) properly authorised by an appropriate officer;

c) within the amount provided in the Council's budget.

d) paid on time

8.1 Apart from petty cash and other payments from the Imprest accounts, the normal methods of payment of money due from the Council shall be made as appropriate by one of the following ways: CHAPS, BACS, cheque drawn or direct debit on the Council's bankers by the Chief Finance Officer.

8.2 Before any payments are made the Chief Officer or designated officer must assure themselves of the following (unless otherwise expressly agreed by the Chief Finance Officer):

8.2.1 the goods have been received, the work done, or the services rendered (except in a limited number of instances where advance payments are absolutely necessary e.g. attendance at a conference or course) and that they are satisfactory as to quality and correct as to quantity;

8.2.2 the goods or services have not been paid for previously;

8.2.3 the payments are arithmetically correct, and prices are in accordance with the agreement, any price list circulated by Corporate Procurement, contract, quotation or current market rate, whichever is applicable;

8.2.4 the payment is lawful;

8.2.5 the expenditure is within the amount provided by annual estimates or approved supplementary estimate; that it has been charged in the financial year in which the work is done, or the goods received, irrespective of the year in which provision has been made in annual estimates;

8.2.6 the payment is correctly coded; and

8.2.7 appropriate entries have been made in inventories or stock or stores records.

8.3 Certificates for contract payments (authenticated by a duly appointed consultant where appropriate) shall be submitted to the appropriate Chief Officer, who will authorise the certificate for payment after examining it to see that it is within the contract sum, subject to any authorised variations and is reasonable. Certificates must include details of the value of the work, retention money, amounts previously certified and amounts now certified.

8.4 Invoices subject to discount for prompt payment shall be passed in sufficient time to enable the discount to be claimed. Where invoices are received within Directorates they should be sent for processing promptly to ensure invoices are paid on time. All payments should be processed within 30 days. The requirements of the Late Payment of Commercial Debts (Interest) Act 1998 and the policies and procedures adopted by the Chief Finance Officer in relation to the Act shall be fully adhered to by all Chief Officers.

8.5 All invoices shall be retained for at least 6 years. In the case of invoices relating to grant claims these must be kept until after the grant claim has been audited even if this exceeds 6 years. In all cases the Chief Finance Officer should be consulted before any disposal takes place.

8.6 Each Chief Officer shall as soon as possible after 31st March in each year, and in accordance with the final accounts timetable notify the Chief Finance Officer of all outstanding expenditure relating to the previous financial year, and normally if accounts are not received during the month following that in which goods were delivered, services rendered, or work completed, the creditor shall be asked to supply an account forthwith.

8.7 Where grants can be claimed on expenditure incurred, Chief Officers should be aware of the appropriate grant conditions and ensure that payments meet these conditions with regard to types of expenditure, payment date, etc. (see also Finance Procedure Rule 15).

Taxation

8.8 The Chief Finance Officer is responsible for ensuring that appropriate advice is available to Chief Officers on all taxation issues (excluding payroll) that affect the Council, having regard to guidance issued by appropriate bodies and relevant/applicable legislation.

8.9 The Payroll Manager is responsible for ensuring that appropriate advice is available to Chief Officers on all payroll taxation issues that affect the Council, having regard to guidance issued by appropriate bodies and relevant/ applicable legislation.

8.10 The Chief Finance Officer is responsible for ensuring that the Council's tax records are maintained and that all tax payments are made, tax credits received, and tax returns submitted by their due date as appropriate, and tax transactions are properly accounted for.

8.11 Tax related documentation will be stored and be readily accessible for examination in accordance with the Council's data retention policy and/or as directed by the Chief Finance Officer.

9 FPR9 – PAYMENT OF EMPLOYEE RELATED EXPENSES

The objective of this Finance Procedure Rule is to ensure that staff are appointed in accordance with the Council's procedures on Recruitment and Selection, are paid in accordance with their Contract of Employment and to ensure leavers are removed from the payroll.

9.1 The payment of all salaries, wages, pensions, compensation and other emoluments shall be made by the Director of Enabler Services or under arrangements approved by them.

9.2 The Council will keep for each employee data regarding the employee's contract of employment together with sufficient information to identify service, salary scale and current amount payable, and sickness leave taken.

9.3 Each Chief Officer shall notify the Director of Enabler Services in the form prescribed, of all matters affecting the various payments at paragraph 9.1 and in particular:

9.3.1 appointments, resignations, dismissals, secondments and transfers;

9.3.2 absences from duty for sickness or other reason, apart from paid leave;

9.3.3 changes in remuneration including normal increments and pay awards and agreements of general application;

9.3.4 information necessary to maintain records of service for superannuation, income tax, national insurance etc.;

9.3.5 provision of benefits in kind.

9.4 All timesheets or other pay documents shall be in a form prescribed or approved by the Director of Enabler Services and shall be duly certified by a nominated officer.

9.5 Each Chief Officer shall be responsible for the submission of the relevant documents within an approved timetable to enable the Director of Enabler Services to make payments by the due dates.

9.6 On a regular basis the Chief Officer shall be provided by the Director of Enabler Services with a selected list of staff currently paid within their Directorate and the rate at which they are currently being paid. The Chief Officers shall certify that every name on the list is a bona fide employee of their Directorate and that the rate of payment to the employee is correct.

9.7 The Director of Enabler Services is responsible for maintaining appropriate systems and records, and to ensure that a proper allocation of those costs, deductions and related employer's contributions and payments is provided as required by the Chief Finance Officer for updating the Council's corporate financial systems.

10 FPR10 – IMPREST AND PETTY CASH ACCOUNTS

10.1 The Chief Finance Officer shall provide petty cash accounts of such amounts as may from time to time be required for the purpose of paying subsistence allowances, local bus and train fares, minor items of equipment and postage stamps and other such urgent payments as may be determined.

10.2 Where they consider it appropriate, the Chief Finance Officer shall open an account with the Council's bankers for use by the Imprest holder who shall not overdraw on the account. It shall be a standing instruction to the bankers that the amount of any overdrawn balance shall forthwith be notified to the Chief Finance Officer.

10.3 A petty cash payment slip must be completed for every reimbursement that is made, signed by the claimant, authorised by their manager and signed by the person making the payment. Receipts must be obtained to back up all expenditure made and reclaimed through the petty cash account and attached to the petty cash payment slip. Please note that this is an agreed prerequisite with the Inland Revenue.

10.4 No income received may be paid into an Imprest account but must be separately banked as provided in these Rules. The only payments into the account must be the reimbursement of the float and change relating to small purchases where an advance has been made. (NB: Such advances must not be for travel/ subsistence purposes).

10.5 Petty cash accounts must never be used to cash personal cheques or make personal loans. On leaving the Council's employment or otherwise ceasing to be entitled to hold a petty cash advance, an employee shall account to the Chief Finance Officer for the amount advances to him or her.

10.6 A list of officers nominated to request the opening of a new petty cash account and a sample of their signature must be supplied by Chief Officers to the Chief Finance Officer and updated on a regular basis.

10.7 Petty cash re-imbursement claims should be correctly coded and authorised for payment by a nominated officer.

11 FPR11 – RISK MANAGEMENT AND INSURANCE

The objective of this Finance Procedure Rule is to ensure that the Council manages potential risks and liabilities and to limit the authority for arranging insurance cover to the Chief Finance Officer.

11.1 Cabinet is responsible for approving the Council's Risk Management Strategy and Strategic Risk Assessment and for ensuring that proper insurance exists where appropriate.

11.2 The Corporate Management Team will update the Strategic Risk Register on a quarterly basis. The Chief Finance Officer is responsible for preparing the Council's Risk Management Strategy and Chief Officers are responsible for promoting and implementing the Risk Management Strategy throughout the Council.

11.3 It is the responsibility of each Chief Officer to assess annually all risks within the areas under their control, and to record them in an annual risk management plan. Chief Officers are responsible for identifying, assessing and controlling risks within their Directorates on an ongoing basis.

11.4 All risks will be recorded in the Strategic Risk Register together with an action plan to show how the risks are owned, monitored, and mitigated.

11.5 The management of risks must be reported to the Corporate Management Team and Cabinet. The format and frequency of reporting will be set out in the Council's Risk Management Strategy

11.6 The Audit Committee will monitor the effective development and operation of risk management framework in the Council.

11.7 The Chief Finance Officer shall assess the Council's overall insurance requirements and will be responsible for arranging all insurance cover and will review insurance cover on an annual basis.

11.8 Each Chief Officer shall be responsible for identifying, assessing and controlling risks within their Directorate on an ongoing basis. Each Chief Officer will undertake a quarterly assessment of strategic risks and determine whether any need to be added or removed, together with an annual review of Directorate risk in consultation with the Chief Finance officer.

11.9 The Chief Finance Officer shall ensure all claims against the Council's insurances are processed and negotiate settlements where liability is accepted within the limits and conditions agreed with the Council's insurers. Chief Officers shall be responsible for providing the necessary information in a timely manner and every assistance in the defence or submission of claims shall be afforded to the Chief Finance Officer. Where it is deemed an insurance recovery will not be forthcoming the Chief Finance Officer is delegated to write off that amount, up to a value of £250,000. Above this amount, Cabinet approval is required.

11.10 The Chief Finance Officer shall ensure a record is kept of all insurances effected by the Council and the property and risks covered thereby, including valuations of insured property. Chief Officers shall notify the Chief Finance Officer on all new risks, properties and vehicles which may need to be insured and of any alterations affecting existing risks or insurances and provide all information requested by insurers in connection with these and current risks.

11.11 All employees concerned with the receipt, custody and/or disbursement of the monies and property of the Council shall be included in a suitable fidelity guarantee insurance. Chief Officers shall ensure that the Insurance Section are notified of such persons.

11.12 Chief Officers shall require approval of the Chief Finance Officer and the Chief Legal and Monitoring Officer, in respect of the terms of any indemnity which the Council is requested to give.

11.13 The Chief Finance Officer shall be consulted about any insurance policies that Chief Officers may wish to arrange on behalf of other parties.

11.14 Chief Officers are responsible for ensuring that anyone covered by the Council's insurances is aware that they must not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim and notify the Insurance Section as soon as possible of any event which may give rise to a claim under any insurance policy.

12 FPR12 – TREASURY MANAGEMENT

The objective of this Finance Procedure Rule is to ensure that proper processes are in place for Treasury Management.

12.1 All investments and borrowing (excluding externally held assets of the Pension Fund) shall be made by the Chief Finance Officer and are in the name of Westmorland and Furness Council

12.2 All securities which are the property of or are in the name of the Council shall be held in the custody of the Chief Finance Officer.

12.3 The Chief Finance Officer is the Council's Registrar of Stocks, Bonds and Mortgages.

12.4 The Chief Finance Officer shall produce a Treasury Management Policy Statement and an Annual Investment Strategy Report, Prudential indicators and MRP policy statement and submit them to Cabinet and then to Council each year. The Chief Finance Officer shall also report on Treasury Management activity during the year, on a six monthly basis, and will revise the Treasury Management Strategy as appropriate and submit to Cabinet for approval, and as appropriate to Council. Audit Committee has a responsibility to review and monitor the Council's treasury management arrangements in accordance with CIPFA Treasury Management Code of Practice.

12.5 The Chief Finance Officer, in consultation with the Cabinet Portfolio Holder for Finance, is responsible for financial management, may vary the Council's lending list criteria and lending list should circumstances dictate. Any changes will then be reported to Cabinet for retrospective endorsement and if necessary also to Council retrospectively in accordance with normal Treasury Management reporting procedures.

12.6 All Treasury Management activities must be conducted by the Chief Finance Officer in line with the relevant CIPFA Code of Practice for Treasury Management in Local Authorities and the CIPFA Prudential Code for Capital Finance.

12.7 Adequate division of duties must exist between arranging and settling of transactions.

12.8 Arrangements must exist which provide for someone other than the officer responsible for day-to-day investment transaction to monitor investment levels, which should be periodically reviewed.

13 FPR13 – REIMBURSEMENT OF EXPENSES AND PAYMENT OF ALLOWANCES

The objective of this Finance Procedure Rule is to ensure that the reimbursement of allowances and expenses to staff and members is in accordance with the appropriate agreements and legislation.

13.1 All claims by employees for payment of any car allowances shall be submitted at monthly intervals to the Director of Enabler Services in approved form, duly certified by the Chief Officer or other nominated officer. Payment of other travelling expenses, subsistence allowances and incidental expenses will be made upon receipt of the appropriate form duly certified.

13.2 Payment to members of the Council or its Chief Officers who are entitled to claim travelling and subsistence allowance will be made by or on behalf of the Director of Enabler Services upon receipt of the prescribed form duly completed.

13.3 Receipts must be provided for all expenditure claimed wherever possible. This is a prerequisite of the HM Revenue & Customs (HMRC).

13.4 All claims for a financial year are to be submitted not later than one month following 31st March in any year, except with the express approval of the Director of Enabler Services

13.5 Certification of a claim shall be taken to mean that the journeys were authorised, and the expenses properly and necessarily incurred, and that the allowances are properly payable by the Council in accordance with the rates approved by the Cabinet. Claims submitted must provide sufficient information to allow such certification to take place.

13.6 Advances for travel and subsistence expenses will only be made in exceptional circumstances to be approved in advance by the Director of Enabler Services.

14 FPR14 – SECURITY AND CONTROL OF ASSETS

The objective of this Finance Procedure Rule is to ensure the proper use and safeguarding of assets owned by the Council or for which the Council has responsibility. This Rule applies to all assets,

including stocks, stores, furniture, equipment, vehicles, cash, land and buildings, software and information that are owned by, or are in the possession of the Council and for which the Council is responsible.

14.1 The use of assets is restricted to authorised Council business. Surplus assets shall be disposed of in an appropriate manner and in accordance with the Contract Procedure Rules relating to Land & Property (see Annex to Contract Procedure Rules)

14.2 The Chief Legal and Monitoring Officer shall have custody of all title deeds of properties owned by the Council and be responsible for their security, and the Director of Resources shall maintain a terrier of all land and properties owned by the Council recording the location, extent, plan, reference, purchase details, nature of the interests, tenancies granted, rents payable and purpose for which held.

14.3 The Director of Enabler Services is designated as Senior Information Risk Owner (SIRO) for the Council and shall ensure that information risk is properly identified, managed and controlled. Assistant Directors are designated as Information Asset Owners (IAOs) and shall ensure that appropriate information assurance mechanisms and inventories are in place to support these SIRO requirements.

Stores

14.4 Each Chief Officer shall be responsible for the care and custody of the stocks and stores in their Directorate; these shall not be in excess of normal business requirements.

14.5 On a regular basis, at not more than 12 monthly intervals, each Chief Officer shall organise a complete examination of all existing stocks with a view to reducing the number of slow-moving items and disposing of obsolete stock items.

14.6 Delivery notes must be obtained in respect of all goods received into store and goods must be checked with both the delivery note and the official order as regards quantity and compliance with specification as soon as practicable thereafter.

14.7 Issues from storesshall be supported by the requisition stating the quantity required and signed by a responsible officer. A receipt shall be obtained for such issues on the appropriate form.

14.8 The Chief Finance Officer shall be entitled to receive from each Chief Officer such information as they require in relation to stores for accounting, costing and financial records. The Chief Finance Officer shall determine the method of valuation of stores.

14.9 Chief Officers shall arrange for periodical test checks of stocks by persons other than the storekeepers and shall ensure that all stocks are checked at least once every year either on an annual basis or as part of a rolling programme. A representative of the Chief Finance Officer may similarly make checks from time to time and the Chief Finance Officer must be notified of an annual stocktake and is entitled to be represented. Any shortages or surpluses are to be certified by the Chief Officer and passed to the Chief Finance Officer who may, after any investigation deemed necessary, authorise the adjustment of the stock records to reflect the actual stock position.

14.10 Stores equipment or materials found to be obsolete or in excess of requirements shall be disposed of appropriately. The use of a competitive process should be followed unless it is agreed that it is not in the interests of the Council.

Property

14.11 The Council is a social landlord; management and maintenance of the Housing Revenue Account stock will be carried out in accordance with all relevant legislation and Council policies.

14.12 The Council's Asset Management Plan sets out the vision, core values and objectives for the management of the Council's assets. Property related matters are the responsibility of the Assistant Director Corporate Assets, Fleet and Capital Programme as Corporate Landlord.

14.13 Except as agreed by Council, no officer may raise money by securing any legal charge or claim upon the buildings, land or any other asset or interest of the Council. Any contract or legal agreement involving a charge upon assets (of the Council or a contractor) will be forwarded to the Monitoring Officer and the Chief Finance Officer for approval and signature on behalf of the Council.

14.14 The Council has adopted a Corporate Landlord approach to the ownership and management of its operational property assets (excluding highways, for which the Director of Thriving Places is responsible). The Corporate Landlord approach means that the ownership of property assets and the responsibility for their management and maintenance is transferred from service directorates to the Corporate Landlord, which is a centralised corporate function.

14.15 In this way the Corporate Landlord approach:

14.15.1 enables the Council to utilise its assets to deliver better, more efficient services to our communities;

14.15.2 unlocks the value of assets, seeks efficiencies through joint arrangements with our public sector partners and maximises private sector investment;

14.15.3 ensures the provision of a consistent, corporate and strategic approach to the management of the Council's property portfolio; and

14.15.4 supports the delivery of the Asset Management Plan.

Inventories

14.16 Inventories shall be maintained by all Directorates and kept up to date. They must contain an adequate description (including serial numbers where appropriate) of furnishings, fittings, equipment, plant, machinery, vehicles and other property of the Council with an individual value exceeding £1000 Directorates shall presume their Information Assets have a default value in excess of this amount.

14.17 Attractive and portable items such as computers or cameras should be identified with security markings as belonging to the Council, and must be recorded in the inventory regardless of value.

14.18 Each Chief Officer is responsible for making checks of such inventories not less than once per year.

14.19 No property of the Council shall be removed otherwise than in the ordinary course of business or used otherwise than for the Council's purposes except in accordance with specific instructions issued by the Chief Officer concerned.

14.20 Inventory items found to be obsolete or in excess of requirements shall be disposed of in an appropriate manner.

15 FPR15 – PAYMENT OF GRANTS AND BENEFITS, AND ASSISTANCE THROUGH LOAN OR GUARANTEE

The objective of this Finance Procedure Rule is to ensure that only properly authorised grant and benefit payments are made, or Loans and Guarantees provided, and where discretionary, to ensure that their purpose is achieved.

15.1 Where specific services are required from a third party, care must be taken to ensure that Contract Procedure Rules are applied where appropriate.

15.2 Prior to the award of a grant, Chief Officers in consultation with the Chief Finance Officer, must consider the need for a financial appraisal of the recipient organisation to ensure the company is financially viable.

15.3 The award of any loan or guarantee must be approved by the Chief Finance Officer and Chief Legal and Monitoring officer.

15.4 The approval of Cabinet (and with approval of the Chief Finance Officer) must be sought before Chief Officer's provide assistance to any third party by way of loan, grant or guarantee of over £150,000 to any one body in any one financial year where it is outside of the already approved budget.

15.5 Each Chief Officer shall provide a record justifying the award of the loan, grant or guarantee.

15.6 All claims must be correctly certified and submitted only if all conditions are met. The Chief Officer or designated officer is responsible for examining, verifying and certifying grant/benefit payments and certification shall mean that:

15.6.1 the grant/benefit payment has not been paid previously;

15.6.2 the payment is lawful and is in accordance with the Council's policy;

15.6.3 the payment is arithmetically correct;

15.6.4 the grant is within budget provision.

15.7 Where grants are made to third parties who subsequently procure any part of the works or services covered by the grant, the grant conditions should require the procurement process to be broadly comparable to those contained with the Contract Procedure Rules (e.g. competitive process). The conditions in this regard are to be agreed by the Chief Finance Officer.

15.8 When making payments for which external funding can be claimed, Chief Officers must be aware of any conditions/obligations laid down by the external funder that the Council must meet (e.g. monitoring of spending) and be satisfied that these conditions/obligations can be and are being met. This includes retaining required records and asset registers as appropriate, and in accordance with FPR14.

15.9 Where funding is dependent upon achievement of outputs, such outputs must be evidenced and monitored accordingly.

16 FPR16 – RECORD OF CONTRACTS FOR CAPITAL WORKS

16.1 Each Chief Officer shall be responsible for maintaining proper records for all contracts in accordance with the Contract Procedure Rules and for informing the Chief Finance Officer and appropriate Portfolio Holder where the final cost is likely to exceed the financial provision.

16.2 In every case before a Chief Officer or consultant issues or certifies a final certificate of payment under a contract the Chief Finance Officer shall have an opportunity to examine the contractor's final account together with such relevant documents and information as they may require.

17 FPR17 – EXTERNAL ARRANGEMENTS

Voluntary and Trust Funds

17.1 Voluntary funds and trust funds will be managed and administered in accordance with relevant statutory requirements and the requirements of the other parts of these financial regulations.

17.2 The responsible Director and/or trustee/fund managers will ensure that the Chief Finance Officer is notified of the establishment of any fund which the Council is to act as trustee or otherwise manage. The processes and information to be notified will be determined by the Chief Finance Officer.

17.3 If it is not apparent from the trust deeds or approved otherwise by the trustees, the Chief Finance Officer will act as Treasurer of that voluntary fund or trust fund.

17.4 Where the funds are external to the Council and the operating and/or provision of services and/or facilities involve the Council or its officers, Chief Officers will ensure that in advance of such arrangements that legal (from the Chief Legal and Monitoring Officer) and financial advice (from the Chief Finance Officer is obtained, and the respective responsibilities of the Council and the trust are clarified and formally agreed.

Accountable Body arrangements

17.5 Cabinet is responsible for the approval of the Council to take on accountable body responsibilities. Accountable Body arrangements involve the Council accepting responsibility for the obligations set out in terms of any funding granted to a third party. Accountable Body arrangements are different to those where the Council acts as grant recipient of funding for an activity it is solely responsible for.

17.6 The following are the minimum requirements for the Cabinet to make a decision about taking on accountable body responsibilities:

17.6.1 Terms of the funding agreement (where known)

17.6.2 Description of arrangements for allocation of funding

17.6.3 Description of applicable financial and audit procedures

17.6.4 Risk assessment/management plan relevant to the Council acting as Accountable Body.

17.6.5 Recovery of costs incurred by the Council acting as accountable body

17.7 Where the accountable body arrangements involve the Council accepting responsibility for a contingent liability, in respect of future payments or stewardship of assets, a report will first be made by the relevant Chief Officer in liaison with the Chief Finance / Section 151 Officer, to Cabinet for its approval and Council will be informed of these liabilities.

External Funding

17.8 Where the Council bids for revenue or capital external funding (either directly or as the accountable body) the decision to apply / bid for the funding is the responsibility of the Chief Officer in consultation with the relevant Portfolio Holder, Leader of the Council, Finance Portfolio holder and Chief Finance / Section 151 Officer

17.9 Successful applications/bids will be reported to Cabinet and associated expenditure will be included in the revenue budget and/ or capital programme.

17.10 Where the Council is providing match funding to support projects / funding applications by other organisations, and these organisations request the Council's support for a project which they are pursuing, the responsibility for approving the Council's support is the relevant Chief Officer in consultation with the relevant Portfolio Holder, Leader of the Council, Finance Portfolio holder and Chief Finance / Section 151 Officer.

17.11 In respect of any external funding arrangements, whether the Council is the accountable body or not, it is the responsibility of the relevant Chief Officer, in consultation with the Chief Finance Officer to ensure that adequate financial management arrangements are in place prior to entering the Council into an external funding arrangement. The processes to ensure adequate financial management arrangements will be determined by the Chief Finance Officer and must be consistent with the terms and conditions of the funding agreement.

17.12 The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's corporate financial systems, and Chief Officers are responsible for providing the Chief Finance Officer with all necessary information to enable this to be achieved.

17.13 Where the Council receives grants (revenue or capital) or external funding from outside bodies (usually, but not restricted to government departments) in the absence of a bidding process, the requirements of paras 17.8 – 17.10 do not apply. This grant income / external funding is usually subject to clear grant notifications and directions and will be included in the annual Budget Report to Council or reported in year to Cabinet through the regular budget monitoring reports as applicable.

17.14 Where external organisations bid for resources from the Council, in addition to the above, it is essential to ensure that the Council's resources are not committed to pursue the priorities of another body (which may not coincide with the Council's aims and priorities, approved by the policy framework) unless the matter has first been properly evaluated, considered and approved.

17.15 If any Elected Member or Officer is involved with an external organisation that is bidding for Council funding, they must declare their interest and withdraw from any involvement in the decision-making process.

17.16 It is the responsibility of Chief Officers, in consultation with Finance, to ensure that adequate financial management arrangements are in place prior to entering the Council into a strategic and commercial contract or partnership arrangements. The processes to ensure adequate financial management arrangements will be determined by the Chief Finance Officer

Note the **Contract Procedure Rules** at **Part 3 Section 7** of this Constitution should also be read in conjunction with this section.

18 FPR18 – HOUSING REVENUE ACCOUNT

18.1 The Housing Revenue Account is a statutory ring-fenced account which holds the revenue income and expenditure for the running of council-owned housing stock and closely related services or facilities that benefit council tenants.

18.2 The Finance Procedure Rules apply to the Housing Revenue Account in all aspects subject to the following fund specifics replacing the main provisions:

FPR2 – Financial Planning and Annual Estimates

18.3 The annual estimates for the Housing Revenue Account shall be prepared separately to all other services to comply with the statutory ring-fence. The annual estimates will include recognition of any share of General Fund or cost and income.

18.4 The Housing Revenue Account annual budget and rent setting are the responsibility of full Council following recommendation from Cabinet.

18.5 The virement limits for the Housing Revenue Account reflect the size and nature of the ring-fenced fund and replace the noted main provisions at FPR 2.20 as follows:

2.20.1 Sums up to and including £100,000 (revenue or capital) may be vired upon the approval of the relevant Chief Officer in consultation with the Chief Finance Officer.

2.20.2 Sums over (more than) £100,000 (revenue or capital) may be vired upon the approval of Cabinet on the recommendation of the relevant Chief Officer and advice of the Chief Finance Officer.

2.20.3 Does not apply to the Housing Revenue Account.

18.6 The Housing Revenue Account shall maintain and hold a separate fund balance and other reserves as determined and recommended by the Chief Finance / Section 151 Officer.

18.7 The Tenants Forum will be delegated an appropriate budget as approved by Cabinet (Tenants Compact) and will direct officers in the use of that budget to address local tenancy and estate needs.

FPR12 – Treasury Management

18.8 The Treasury Management Policy Statement and Prudential Indicators shall include separate reference to the Housing Revenue Account debt portfolio.

18.9 The debt attributable to the Housing Revenue Account shall be separately identified and the interest charged accordingly.

18.10 The actual charges for capital in the Housing Revenue Account are known respectively as the “Item 8 Debit” (of part II) and the “Item 8 Credit” (of part I of schedule 4 of the Local Government and Housing Act 1989). A general determination was issued for 2012/13 onwards and most recently changed from April 2017 onwards to recognise the end of self-financing transitional arrangements concerning the major repairs allowance.

Part 3 – Section 7 – Contract Procedure Rules

1 INTRODUCTION

1.1 This part of the Constitution sets out the Council's rules for buying goods, services and works on behalf of the Council and disposing of some types of property. In this document they are referred to as the "CPRs".

1.2 These CPRs meet the requirement that a local authority shall make standing orders with respect to the making by them or on their behalf of contracts (including Relevant Contracts as defined in these CPRs) for the supply of goods and materials or for the execution of works for the purposes of section 135 of the Local Government Act 1972.

1.3 The Council has a duty to secure continuous improvement in the way it delivers services, with a clear regard for the economy, efficiency, and effectiveness. The CPRs explain how the Council will deliver against these criteria and sets out the required approach for procurement and contracting with third parties on behalf of the Council, for the purchase of Supplies, Services and Works.

1.4 These CPRs are designed to assist the Council in complying with relevant legislation and to:

1.4.1 Ensure the public purse is managed in a proper and responsible fashion and in a way which will promote value for money; and

1.4.2 Act as a safeguard for the Council and its officers against any allegations of dishonesty and corruption.

1.5 Responsible Officers of the Council (also referred to in these CPRs as 'officers' or ‘responsible officers’) must have regard to the Council's Procurement Cycle, Procurement Strategy and Commissioning Strategy and/or any replacement of such strategies from time to time in force. In these CPRs this is referred to as "the Guidance".

1.6 A glossary of key terms is at section 8 of these CPRs

2 SCOPE OF THE CPRS

2.1 The Council is a Contracting Authority/Relevant Authority for the purposes of Procurement Legislation and is therefore legally bound to comply with certain practices and procedures in the award of Relevant Contracts to which the Procurement Legislation applies.

2.2 The CPRs apply whenever the Council is commissioning or procuring Supplies, Services or Works, or disposing of Assets.

2.3 These CPRs form part of the Council's Constitution and compliance with them by all officers is mandatory. The risk of non-compliance with the Procurement Legislation is significant and can include the award of damages against the Council and Relevant Contracts being set aside.

Officer Responsibilities

2.4 Subject to any overriding legal obligation, officers and any third parties instructed by the Council, must comply with the CPRs when commissioning and/or procuring Supplies, Services or Works, disposing of Assets and making decisions about these matters.

2.5 Officers who instruct third parties to procure Relevant Contracts must provide the third party with the Council’s Code of Conduct for Employees and a copy of the CPRs.

2.6 Officers and relevant third parties responsible for commissioning, procurement and disposal of Assets must in addition comply with other relevant parts of the Constitution, such as the

Access to Information Procedure Rules and the Finance Procedure Rules, and with all applicable laws.

2.7 Officers must take all legal, procurement, financial, technical and other advice that they need to ensure they comply with the law and the Council's rules and policies and that the procurement method and contract are fit for purpose.

2.8 Officers must comply with measures put in place by the Council to prevent, identify and remedy conflicts of interest which arise during the conduct of procurement. In particular:

2.9 Officers must comply with the Officers' Code of Conduct when conducting a procurement exercise.

2.10 Officers must comply with section 117 of the Local Government Act 1972 by declaring in writing any personal interest in a Relevant Contract to the Section 151 Officer.

2.11 Officers must not accept any gift or hospitality from any Candidate for any Relevant Contract being procured by the Council and to do so is a disciplinary offence. Officers must inform the Section 151 Officer if offered a gift or hospitality during a Tender Process.

Application of these CPRs

2.12 Unless subject to an Exemption, as set out below in section 3, these CPRs apply to all Relevant Contracts.

2.13 Every Relevant Contract made by or on behalf of the Council shall comply with the provisions and principles of Procurement Legislation and all other applicable principles and provisions, domestic legal requirements, and the CPRs and Financial Rules. In the event of any inconsistency between the provisions of the CPRs and any legal requirement then the legal requirement shall prevail.

2.14 Corruption is a criminal offence. All officers who procure, let, manage or supervise contracts must act in accordance with the highest standards of propriety and ensure adequate records are kept.

2.15 Failure to comply with any of these CPRs may be considered a breach of the Code of Conduct for Employees and may result in disciplinary action and legal proceedings against the officers or third parties concerned. No officer shall take any steps or fail to take steps to knowingly or recklessly seek to avoid the CPRs.

2.16 Any officer who fails to follow the CPRs may lose the protection of the indemnity given to employees of the Council and therefore may have personal liability for a Relevant Contract or any losses.

2.17 Where it becomes apparent that there is a potential failure to comply with the CPRs and, or, the Procurement Legislation, the requirements of paragraphs 16.1 to 16.11 are to be complied with.

2.18 A Relevant Contract includes a contract for the appointment of consultants.

2.19 A Relevant Contract procured on behalf of or by any organisation which is in receipt of funding for which the Council is the Accountable Body is also a Relevant Contract under these CPRs.

2.20 Local Authority Maintained Schools are expected to comply with these CPRs.

3. EXCEPTIONS TO THESE CPRs

3.1 The CPRs do not apply to Relevant Contracts or spend that are removed from the application of the Procurement Legislation. Examples of the following arrangements, to the extent that this complies with the law, are set out below:

3.1.1 Contracts of employment which make an individual a direct employee of the Council.

3.1.2 Agreements for the acquisition, disposal or transfer of land/buildings which do not form part of a wider transaction under which the Council also procures Supplies, Services or Works (for which see Appendix below).

3.1.3 Grant Funding which the Council may receive or award, except as otherwise provided for in the Procurement Legislation.

3.1.4 Contracts for an educational or care placement for a specific individual where the relevant Director considers such placement to be in the best interests of the individual.

3.1.5 Contracts for care services to be provided to a specific individual household where the relevant Director considers such a contract to be in the best interests of an individual.

3.1.6 Contracts with a third party where sections 184 and 278 of the Highways Act 1980 apply.

3.1.7 Contracts for the provision of exempt legal services;

3.1.8 Any contracts between the Council and a company that is controlled by it (sometimes referred to as a Teckal company);

3.1.9 Any contracts between the Council and a company that is jointly controlled by the Council with another Contracting Authority; or

3.1.10 Any arrangement entered into by two or more authorities with the aim of achieving objectives the authorities have in common in connection with the exercise of their public functions, which are solely in the public interest, in which no more than 20% of the activities contemplated by the arrangement intended to be carried out other than for the purposes of the authorities' public functions.

3.1.11 Any contract of employment or loans or the sale, issue or purchase of any shares or other similar financial asset;

For the purposes of paragraphs 3.1.4 and 3.1.5 contracts are only exempt from these CPRs if the aggregate value of contracts awarded to a single provider does not exceed the relevant Procurement Threshold[2] .

3.2 Advice must be sought from Legal Services and the Assistant Director Commissioning and Procurement where spend is considered to be exempted from the application of Procurement Legislation.

3.3 In addition to the above, the CPRs do not apply to:

3.3.1 contracts below the relevant Procurement Threshold which are required in circumstances of extreme emergency such as an immediate danger to life or property; and

3.3.2 Relevant Contracts above the relevant Procurement Threshold which are procured using the negotiated procedure without prior publication under Procurement Legislation except insofar as compliance is required.

[2] Procurement Policy Note 11/23 – New Thresholds (HTML) – GOV.UK – Supplies & Services £214,904, Works £5,372,609, Light Touch Regime for Services £663,540 (correct as at Feb 2025)

In both these circumstances relevant Director, following advice from the Chief Legal & Monitoring Officer and the Assistant Director Commissioning and Procurement is authorised to take appropriate action and must report such action and the expenditure incurred to the next meeting of the Cabinet.

4. PRINCIPLES OF PROCUREMENT

4.1 For all procurement exercises conducted by the Council, irrespective of value, the following objectives will be followed:

4.1.1 The objectives as set out in the Guidance;

4.1.2 The Council's contracts will deliver value for money.

4.1.3 The Council will procure to maximise the public benefit.

4.1.4 The Council will share information for the purpose of allowing suppliers and others to understand the Council's procurement policies and decisions.

4.1.5 The Council will act, and be seen to act, with integrity, transparency and proportionality.

4.1.6 The Council will treat suppliers the same, unless a difference between the suppliers justifies different treatment.

4.2 Where one or more of the above objectives cannot be followed, the justifications for this and any mitigations to be taken will be recorded in the Officer Decision Record or report.

4.3 The optimum use of the Council's purchasing power must be made by aggregating purchases and through the use of different Procurement routes to the market and Relevant Contracts. Where there is an existing approved contract or Procurement option in place then this should be used in the first instance for purchasing Works, Services and Supplies.

Social Value

4.4 Social value considers the wider economic, community or environmental benefits than can be generated through how the Council delivers its activity and services, including when procuring goods, works or services from the Council's suppliers. These benefits can be measured through financial and non-financial metrics and can encompass the entire supply chain.

4.5 All officers undertaking procurement activity shall have regard to the requirements of the Council's Social Value Statement. By leveraging how the Council procures goods and services, the Council can create the maximum benefits for administrative area of the Council. The Council's suppliers will not just be expected to deliver additional benefits, but to measure and report against these too.

5. TRANSITIONAL ARRANGEMENTS

5.1 There are a series of transitional and saving arrangements which determine which legislation applies to the Council's procurement activities.

5.2 If in doubt, advice must be sought from Legal Services and / or the Procurement Team as to the application of the Procurement Legislation.

5.3 For the purposes of these CPRs, the following Procurement Legislation shall apply:

5.3.1 Health Care Services (Provider Selection Regime) Regulations 2023

- Procurement of Health Care Services

- Modification of contracts relating to Health Care Services

5.3.2 Public Contracts Regulations 2015

- For Relevant Contracts awarded, framework agreements concluded, or dynamic purchasing systems established before 24 February 2025.

- Modification of Relevant Contracts awarded, framework agreements concluded, or dynamic purchasing systems established before 24 February 2025.

- Call-offs of framework agreements concluded, or dynamic purchasing systems established before 24 February 2025. (Note that with the exception of dynamic purchasing systems procured for Services under the Light Touch regime, any contracts let under a dynamic purchasing system will automatically expire 23 February 2029).

- Where a contract notice required by Regulation 26(8) or 75(1)(a) (publication of notices: public contracts for social and other specific services), has been submitted for publication in accordance with Regulation 51 before 24 February 2025.

- Modification of a Relevant Contract where a contract notice required by Regulation 26(8) or 75(1)(a) (publication of notices: public contracts for social and other specific services), in relation to that Relevant Contract had been submitted for publication in accordance with Regulation 51 before 24 February 2025.

- In respect of a below Procurement Threshold Contract, the publication of a contract opportunity on Contracts Finder in accordance with Regulation 110 before 24 February 2025.

- Modification of a below Procurement Threshold contract, where the publication of the contract opportunity on Contracts Finder was made in accordance with Regulation 110 before 24 February 2025.

5.3.3 Procurement Act 2023 (as amended and/or any successor legislation) and the Procurement Regulations 2024 (as amended and/or any successor legislation)

- For Contracts awarded, framework agreements concluded, or dynamic markets established after 24 February 2025.

- Modification of Contracts awarded, framework agreements concluded, or dynamic markets established after 24 February 2025.

- Call-offs of framework agreements concluded, or dynamic markets established after 24 February 2025.

6 RECORD KEEPING

6.1 The Responsible Officer must keep records pertaining to the procurement of any Relevant Contracts, including any Relevant Contract for which an Exemption has been approved and provide copies of the same to the Procurement and Commissioning Service.

6.2 Where the Total Value of the Relevant Contract is less than £50,000 the following records **must** be kept:

6.2.1 A unique reference number for the Relevant Contract, the title of the Relevant Contract and the parties;

6.2.2 The method for obtaining quotes or tenders;

6.2.3 Criteria for the award of the Relevant Contract;

6.2.4 The contracting decision and the reasons for it;

6.2.5 Records of all communications with the Candidates/Supplier; and

6.2.6 The written agreement between the parties.

6.3 Where the Total Value of the contract is £50,000 or more the following records must be kept in addition to those specified above:

6.3.1 Business case (including details of pre-tender market research, options appraisal and risk assessments);

6.3.2 Tender documents sent to and received from Candidates/Supplier;

6.3.3 The records of the evaluation of the tender;

6.3.4 Records of all clarification and post tender discussion (including minutes of any meetings); and

6.3.5 Record of consideration of the public sector equality duty, the (Public Contracts) Social Value Act 2012 and consultation.

6.4 The above records required under these CPRs must be retained in compliance with the Council's corporate document retention policy.

6.5 In addition to the above requirements, within 30 days of award of the Relevant Contract, the Responsible Officer **must** arrange for details of the award of any contract with a Total Value over £50,000 to be included in the Contracts Register. The details that must be included are:

6.5.1 Start date and duration of the Relevant Contract;

6.5.2 Supplier;

6.5.3 Title;

6.5.4 Any contractual provision for extension; and

6.5.5 Internal contact name and email address

6.6 In any instance where the total contract value is over £25,000 the Responsible Officer must arrange for details of the award to be notified on Contracts Finder by completion of an Award Notification Form and sending to the Assistant Director Commissioning and Procurement.

7 KEY DECISIONS

7.1 The Glossary at Part 6 of this Constitution defines a Key Decision.

7.2 The decision to commence a procurement exercise is not deemed to be a Key Decision unless the decision forms part of and is taken at the same time as a decision that will result in a change to service provision which will have a significant effect on two or more wards of the Council.

7.3 The award of a Relevant Contract which is a Key Decision must adhere to the Access to Information Procedure Rules relating to Key Decisions set out in Part 3, Section 3 of this Constitution.

7.4 Where contractual spend would not involve a Key Decision, the relevant delegated officer must approve the commencement of a Tender Process in accordance with the section 11 of these CPRs. It is the responsibility of the delegated officer to record the decision on the Council's Officer Decision Record or report system, where required by the Scheme of Delegation to Officers.

7.5 In accordance with section 13 of these CPRs, the delegated officer must approve the award of a Relevant Contract on the satisfactory completion of the Tender Process prior to entering into a Relevant Contract or notifying any person or organisation of the Council's intention to award a Relevant Contract. The same delegated officer shall ensure the relevant Cabinet Member is informed, where required in accordance with the Access to Information and Procedure Rules. The decision must be recorded in an Officer Decision Record or report.

7.6 In respect of Relevant Contract awards which are not Key Decisions, the Responsible Officer must comply with the requirements set out in section 21 of the Access to Information Procedure Rules at Part 3, Section 3 of the Council's constitution.

7.7 All ICT procurements must be undertaken with the involvement of ICT Services.

8 STEPS PRIOR TO PROCUREMENT / TENDER PROCESS

Common Requirements

8.1 The Responsible Officer must check whether there is a suitable existing contract, internal Framework Agreement or collaborative agreement before seeking to procure another contract. Where a suitable arrangement exists, this must be used unless there is a compelling legal or financial reason not to.

8.2 Subject to 8.1 the Responsible Officer may use any appropriate procurement procedure which is permitted by these CPRs or by The Procurement Legislation Where The Procurement Legislations applies,the Responsible Officer must use a procurement procedure which complies with The Procurement Legislation, seeking advice from the Assistant Director Commissioning and Procurement.

8.3 The Responsible Officer must consider the implications of the public sector equality duty under the Equality Act 2010; and (in respect of Services) of the Public Contracts (Social Value) Act 2012; and whether the proposed Relevant Contract requires prior consultation under the "best value" requirements of the Local Government Act 1999 or for any other reason.

8.4 The Responsible Officer must consider whether, and if so how, social, economic or environmental issues could be addressed through the Relevant Contract. Social, economic and environmental issues may be addressed through procurement where what is sought to be achieved is relevant and proportionate to the subject matter of the Relevant Contract.

Contract Value

8.5 It is important to properly estimate the Total Value of a Relevant Contract on the basis that different rules apply depending on the nature and value of a Relevant Contract.

8.6 The estimated Total Value of a Relevant Contract shall be the Total Value of the Relevant Contract inclusive of VAT, unless VAT exempt or "zero rated". This is the total consideration estimated to be payable over the full term of the Relevant Contract by the Council to the supplier, including any extensions of the term, or where there are options to supply additional Works, Supplies or Services.

8.7 Where the Relevant Contract is one where the benefit to the supplier is made up entirely or in part from benefits other than simple monetary payment (such other benefits may include but are not limited to concessions, options, licences or more generally exposure to other opportunities or funding streams) from the Council, a best estimate of the total financial value should nonetheless be ascertained and this should be treated as the relevant Relevant

Contract value for the purposes of the application of the remainder of this section 8 and section 9 .

8.8 Where, in relation to Contracts for Services, the Contract period or Total Value of the Contract is indefinite or uncertain, it shall be assumed that the Contract will be above the Procurement Threshold.

8.9 Where the Contract has an option to extend, then the proposed extension period must be included in determining the Total Value and as recorded in the original decision record.

8.10 The estimated value of a Framework Agreement is the Total Value of all the Relevant Contracts which could be entered into by the Council (and other Contracting Authorities if appropriate) over the duration of the Framework Agreement. In the case of a Relevant Contract awarded under an Open Framework, the value of the Framework Agreement is to be treated as including the value of all of the Relevant Contracts awarded, or to be awarded under the Open Framework.

8.11 In the case of supply/goods Relevant Contracts which are regular in nature (i.e. a series of similar individual purchases throughout the year), there is a requirement to aggregate these and assess their value on the basis of spend over the preceding 12 months or, where such data is unavailable, the estimated value over the 12 months following the first delivery under the Contract to be procured; and this calculation is to be used as the Relevant Contract value for the purposes of the application of these CPRs.

8.12 Purchases of the same or similar nature must be aggregated wherever practicable and it is unlawful to deliberately disaggregate purchases so as to avoid the application of Procurement Legislation.

8.13 For Relevant Contracts above the Procurement Threshold, purchase requirements should be lotted where appropriate so as to attract the interest of SME and VCFS organisations. Where this is not practicable the justification for the decision must be recorded on any associated report and/or procurement plan.

8.14 Where purchase requirements are lotted, the estimated value of Relevant Contracts should be the estimated value of all lots envisaged for the total term.

8.15 Whatever method is used for the calculation of the estimated Relevant Contract value, this must not be made with the deliberate intention of excluding that Relevant Contract from the scope of the application of Procurement Legislation.

8.16 For the avoidance of doubt, Relevant Contracts relating to the leasing, hire, rental or hire purchase and Relevant Contracts for concessions are subject to the provisions of these PCRs.

Market Consultations

8.17 Before commencing a procurement exercise, in accordance with the Procurement Legislation, the Responsible Officer may consult with the market with a view to preparing the procurement exercise and informing contractors of the Council's procurement plans and requirements.

8.18 In carrying out market consultations, the Responsible Officer may seek advice from independent experts, authorities or from market participants and use this in planning and conducting the procurement exercise provided that it does not have the effect of distorting competition, result in discrimination or breach the principle of transparency. The prior written approval of the Assistant Director Commissioning and Procurement must be sought before seeking advice from anyone who may have a commercial interest in the Relevant Contract to which the procurement exercise relates.

9. ROUTES TO THE MARKET

Approved Lists

9.1 Approved Lists are lists of suppliers who meet the Council's minimum technical and financial standards for the types of Relevant Contract.

9.2 The Assistant Director Commissioning and Procurement, following consultation with the Chief Legal & Monitoring Officer, may establish an Approved List of suppliers of Supplies, Services or Works, where the Council requires to make recurrent, low value, transactions of a similar type which must be priced individually and cannot be aggregated into a single procurement exercise.

9.3 Any request for approval must specify:

9.3.1 The business case for establishing an Approved List;

9.3.2 The proposed duration of the Approved List;

9.3.3 The maximum spend using the Approved List; and

9.3.4 The method of procurement of and from the Approved List.

9.4 All Approved Lists must be openly advertised to potential suppliers and must remain open for their duration to permit new suppliers to join.9.5 An Approved List may not be used to procure Supplies, Works or Services with an aggregated value in excess of the Procurement Threshold.

Framework Agreements, Dynamic Purchasing Systems and Dynamic Markets

9.6 Framework Agreements are agreements with one or more suppliers for the provision of Supplies, Services or Works on agreed terms for a specified period, for estimated quantities against which orders may be placed if and when required. Once established "Call Offs" from the Framework Agreement may be conducted by mini competition or by direct call off, according to the terms of the Framework Agreement.

9.7 Where a Framework is established with a Total Value exceeding the Procurement Threshold, the Procurement Legislation must be followed and advice must be sought from Legal Services and the Assistant Director Commissioning and Procurement.

9.8 An Open Framework pursuant to the Procurement Act 2023 is a scheme of frameworks that provides for the award of successive frameworks on substantially the same terms. The Open Framework must provide for the award of a framework at least once during the first three-year period and each period of five years beginning with the day of award of the next. An Open Framework may only be concluded after 24 February 2025.

9.9 A Dynamic Market pursuant to the Procurement Act 2023 is a list of suppliers who have met the Council's conditions of membership and whom may be awarded an above Procurement Threshold contract via the competitive flexible procedure. New suppliers can join the Dynamic Market at any time during its operation. A Dynamic Market may only be established after 24 February 2025.

9.10 A Dynamic Purchasing System, procured pursuant to the Public Contracts Regulations 2015, is an electronic system of pre-qualified suppliers, for commonly used purchases from which Contracting Authorities can invite tenders. New suppliers can join the Dynamic Purchasing System at any time during its operation.

9.11 It may be the case that the applicable procurement option itself is not a Relevant Contract, but the procurement to establish this option will still be subject to Procurement Legislation, save where the subject matter of the procurement is exempt from their application. All procurement options established by the Council are required to be in writing.

9.12 The Council may set up its own contracting arrangements or may use contracting arrangements set up by other Centralised Procurement Authorities.

9.13 All purchases made via a Centralised Procurement Authority must have the prior approval of Legal Services and the Assistant Director Commissioning and Procurement. This is to ensure that the proposal has been compliantly procured in accordance with these CPRs and the Procurement Legislation, and the rules of use of the proposed contracting arrangement are adhered to.

9.14 Without prejudice to the requirements set out in section 11 of these CPRs, the use of Procurement options which have been approved in accordance with paragraph 9.13 are deemed to comply with these CPRs and no waiver will be required.

9.15 For the purposes of determining whether the value of a proposed Framework Agreement or Open Framework is such as to attract the application of Procurement Legislation, please refer to paragraph 8.5 above.

9.16 For the avoidance of doubt, the use of select lists, preferred providers or approved providers shall, for the purposes of these CPRs, be treated as a Procurement route to the market and shall therefore require compliance with this these CPRs.

Duration

9.17 A Framework Agreement shall not exceed 4 years' duration without prior approval of the Assistant Director of Commissioning and Procurement in consultation with the Monitoring Officer, which will only be given in exceptional circumstances where justified by the subject matter of the Framework Agreement.

9.18 Framework Agreements set up for Light Touch Services and Dynamic Markets do not have a maximum term but must be set for an appropriate duration taking into account the subject matter.

9.19 The maximum duration of an Open Framework is 8 years.

9.20 Save as set out below, there is no restriction on the duration of a call-off Relevant Contract, but the duration must not be determined in a manner that distorts or restricts competition.

9.21 The transitional and saving regulations[3] set out that any Dynamic Purchasing System established under the previous legislation must come to an end as set out when they were established, or by 23rd February 2029 (four years after the new regime comes into effect), whichever is earlier. Any Relevant Contract awarded under such an arrangement will continue until it comes to an end and be managed by the previous legislation (even if the Dynamic Purchasing System).

9.22 The regulations restrict the ability to extend a Dynamic Purchasing System awarded under the previous legislation (see, for example, as might arise under PCR regulation 34(28)) by providing that any dynamic purchasing system extended after the Procurement Act 2023 comes into force can only be extended in the first 12 (twelve) months after the Procurement Act 2023 comes into force and cannot be extended beyond 23rd February 2029.

Collaborative Procurement Arrangements

9.23 The Council may enter into collaborative procurement arrangements with other local authorities, government departments, public bodies or public service purchasing consortia and may use framework agreements or lists of pre-qualified contractors established by such bodies.

9.24 Responsible Officers proposing to use such arrangements must ensure that they have been established in a way which complies with the law. In particular where the Procurement

[3] The Procurement Act 2023 (Commencement No.3 and Transitional and Saving Provisions) Regulations 2024

Legislation applies the collaborative agreement must comply with them, the Council must be among the bodies named in the Find a Tender notice as having access to the arrangements and there must be scope in the arrangement to permit its lawful use for the purposes proposed.

Partnership Arrangements including Shared Services and Joint Commissioning

9.25 Where the Council enters into a Partnership Arrangement with another organisation or other organisations, agrees to act as Accountable Body, or enters into a shared service arrangement, the governance arrangements must include procurement and contract arrangements if any procurement will be undertaken.

9.26 Where the Council is the Lead Body or the Accountable Body for any arrangements, these CPRs should be included in the arrangements and followed as a minimum.

9.27 Before the Council agrees to enter into a Relevant Contract on behalf of another organisation, the Responsible Officer must obtain written agreement from that organisation that it will provide sufficient funding and take any other action necessary for the Council to meet its obligations under the contract on behalf of that organisation.

9.28 Where the Council is not the Lead Body or the Accountable Body, the other organisation's tendering rules should be followed provided that they comply with the law.

Rolling Contracts

9.29 Where it is proposed to procure a Relevant Contract on terms which will provide for renewal on a "rolling" basis, the Responsible Officer must make a reasonable estimate of the term of the Relevant Contract in order to estimate the Total Value so as to ensure compliance with these CPRs and to obtain a decision to proceed to Procure and enter into the written agreement. .

9.30 If during the term of the Relevant Contract it appears that the estimated Total Value, or the value at which the decion to award was made, may be exceeded by anticipated further renewals the officer responsible for managing the contract must refer the matter to the Assistant Director Commissioning and Procurement who must review the position in consultation with the Chief Legal & Monitoring Officer so as to ensure compliance with these CPRs

10 EXEMPTIONS FROM THESE CPRs

10.1 The Assistant Director Commissioning and Procurement is authorised to approve Exemptions from the CPRs, following consultation with the Chief Legal & Monitoring Officer.

10.2 The Assistant Director Commissioning and Procurement may not approve a request for an Exemption that would result in a breach of the Procurement Legislation in respect of a Relevant Contract to which these CPRs apply.

10.3 The Exemption must be approved before any alternative procedure not wholly in accordance with these CPRs is followed.

10.4 The request for Exemption must state from which of the requirements of the CPRs Exemption is requested and give reasons for the request.

10.5 Examples of circumstances in which it may be appropriate to request an Exemption include but are not limited to:

10.5.1 Supplies of goods where the Council's best interests will be served by purchase through auction and the Director has agreed an upper limit for bids.

10.5.2 There is only one contractor in the market relevant to the Supplies, Services or Works who is suitable to provide the Supplies, Services or Works required.

10.5.3 The Council's need for the Supplies, Services or Works is so urgent that compliance with these Rules would in the judgement of the Director prejudice the Council's interests. For example, extreme emergency would include an immediate danger to life or property.

10.6 Given the specialist nature of the roles and the market, these CPRs provide an exemption, in relation to the appointment of Independent Investment Advisers and Shareholder Advisers to the Pension Fund (where the Relevant Contract value is below the Procurement Threshold) from the requirement set out at section 11 (below).

10.7 The Assistant Director Commissioning and Procurement will keep a record of all Exemptions approved.

11 AUTHORISATION TO START PROCUREMENT

11.1 The persons or bodies authorised to approve the start of a procurement exercise are set out in the table below:

Estimated Total Contract Value	Decision Maker
£0 - £500,000	Assistant Director
Call offs of a value £0 - £500,000 from an approved Framework Agreement, DPS or Dynamic Market	Assistant Director
£500,001 and above	Director after consultation with the relevant Cabinet Member
Call offs of a value £500,001 and above from an approved Framework Agreement, DPS or Dynamic Market	Director after consultation with the relevant Cabinet Member (written record to be kept)
Contracts the budget for which has been wholly included in the Capital Programme	Director or an Officer authorised by the Director
Establishment of an Approved List	Director or an Officer authorised by the Director
Procurement from an Approved List	Director or an Officer authorised by the Director

11.2 The Responsible Officer must ensure authorisation to procure is obtained and is responsible for ensuring that the CPRs have been complied with and that the proposed procurement documents (business case, advertisement, invitation to tender, contract terms and conditions, all required notices etc.) have been approved by the Director with commissioning responsibility in respect of the Relevant Contract.

12 PROCUREMENT OF CONTRACTS

Common Requirements

12.1 In conducting any procurement exercise, the Council must treat all economic operators equally and without discrimination and must act in a transparent and proportionate manner.

12.2 Electronic procurement using the e-tendering portal (The Chest) must be used for all tenders and quotations unless authorisation to use an alternative method has been given by the Assistant Director Commissioning and Procurement.

12.3 The Responsible Officer must consult the Assistant Director Commissioning and Procurement on the appropriate procurement procedure and route to the market. The Responsible Officer must have regard to the Guidance.**Identifying Potential Candidates/Suppliers**

12.4 Where a Relevant Contract is being procured the minimum procurement process and rules for inviting Candidates are as follows.

Procurement type*	***De minimis*** **<u>One</u> verbal quotation to be confirmed in writing**	**Threshold 1 Seek a minimum of <u>two</u> written quotations**	**Threshold 2 Seek a minimum of <u>three</u> written quotations****	**Threshold 3 Conduct an open competition**
Supplies	Less than £2k	£2,001k - £50k	£50,001 to Procurement Threshold	Greater than Procurement Threshold
Services	Less than £2k	£2,001k - £50k	£50,001 to Procurement Threshold	Greater than Procurement Threshold
Works	Less than £2k	£2,001k - £50k	£50,001 to Services Procurement Threshold	Greater than Services Procurement Threshold***
Light Touch regime for services	Less than £2k	£2,001k - £50k	£50,001 to Services Procurement Threshold	Greater than Procurement Threshold
Health Care Services procured under Provider Selection Regime	No financial thresholds apply under the Provider Selection Regime – procedure to be determined as appropriate by Procurement and Legal Services under the Provider Selection Regime.			

** Where it is proposed to procure using an already established, whether by the Council or a Centralised Procurement Authority, Framework, Open Framework, DPS or Dynamic Market, the requirement to obtain the necessary oral or written quotation may be excluded subject to the Responsible Officer having satisfied a value for money process and complied with the reporting requirements as set out in these CPRs.*

*** In the event that a minimum of three legitimate quotes have been demonstrably sought but not received within a reasonable timescale it is considered that the CPRs have been complied with.*

**** If seeking open competition is not feasible in the circumstances, where the Relevant Contract value is below the works Procurement Threshold in the Procurement Legislation, a three quote process may be undertaken, provided that the reasons for not undertaking an open competition are recorded by the relevant officer on the Council's central decision recording system.*

12.5 The table below outlines the Council's requirements in terms of whom shall be responsible for undertaking the required procurement activity.

Threshold	Who Undertakes Procurement Activity
De Minimis and Threshold 1	The relevant commissioning service area.
Threshold 2	The Procurement and Contract Management Service under instruction from the commissioning service area, or The commissioning service area with prior agreement from the Procurement and Contract Management Service.
Threshold 3	The Procurement and Contract Management Service under instruction from the commissioning service area.

12.6 Where a Relevant Contract with a value above £30,000 is advertised the Responsible Officer must also publish information on Contracts Finder in accordance with the procedure in the Procurement Legislation, before it is advertised anywhere else. The responsible officer should provide the relevant details to the Assistant Director Commissioning and Procurement prior to advert to ensure this is complied with.

12.7 The Local Government Transparency Code requires the publication of details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000.

12.8 The Council's standard terms and conditions must be utilised for all contracting opportunities below £50,000, unless the Relevant Contract concerns an ICT requirement or relates to Works. Where the Relevant Contract concerns an ICT requirement on supplier terms and conditions, advice must be sought from Legal Services. Where the Relevant Contract is for Works or the value is £50,000 or more, advice must be sought from Legal Services as to the form of written agreement to be entered into.

12.9 The number of quotes indicated in the table above represent a minimum requirement. It is strongly recommended that more than the minimum number of quotes are obtained to enhance competition. Forward planning and engagement with the marketplace will help to ensure maximum value is achieved.

12.10 Unless the value of the procurement activity exceeds the relevant Procurement Threshold, the Council will endeavour to provide a minimum of 10 days for suppliers to respond to a Tender Process.

12.11 In setting the procurement timeframes, whether or not the Procurement Legislation applies, the Council will consider, amongst other factors:

12.11.1 The nature and complexity of the Relevant Contract being awarded;

12.11.2 The need for site visits, physical inspections and other practical steps;

12.11.3 The need for sub-contracting;

12.11.4 The nature and complexity of any amendments made to the Council's requirements during the procurement activity; and

12.11.5 The importance of avoiding unnecessary delay.

Selection and Award Criteria for Tenders

12.12 In accordance with the applicable Procurement Legislation, the Officer must use appropriate criteria to select Candidate/Suppliers (where a two- stage Tender Process is used) and also to award the Relevant Contract.

12.13 The Responsible Officer must ascertain the standards necessary to properly define the subject matter of the Relevant Contract, having regard to any relevant industry standards. 12.14 The Responsible Officer must define the award criteria that are appropriate to the procurement in order to secure value for money. The criteria must be one of the following:

12.14.1 Lowest Price;

12.14.2 Highest Price: where payment is to be received by the Council); or

12.14.3 MEAT (Most Economically Advantageous Tender): where considerations other than price also apply in accordance with the Procurement Legislation.

Invitations to Tender

12.15 An invitation to tender must state that the Council reserves the right to reject a tender that is not received by the date and time stipulated in the invitation to tender. A tender which contravenes the requirements as to date and time for submission must not be considered without the prior approval of the Assistant Director Commissioning and Procurement and Chief Legal & Monitoring Officer.

12.16 All invitations to tender must include the following:

12.16.1 A specification to describe the Council's requirements in clear sufficient detail to enable the submission of competitive offers.

12.16.2 The Relevant Contract terms and conditions unless emphatic market practice is that supplier's terms are used, in which case the requirement is that they are supplied as part of the tender and Legal Services must be instructed prior to any agreement to contract on supplier terms.

12.16.3 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 Candidate/Supplier to any other party (except where the disclosure is made in confidence for a necessary purpose).

12.16.4 A requirement for Candidates/Suppliers to complete fully and sign all tender documents including a form or tender and certificates relating to canvassing and non-collusion.

12.16.5 Notification that tenders are submitted to the Council on the basis that they are compiled at the Candidate's/Supplier’s expense.

12.16.6 A description of the Award Procedure and unless defined in a prior advertisement a definition of the Award Criteria. Where the criterion of MEAT or MAT is used, it must be further defined by reference to sub-criteria which may only refer to considerations relevant to the award of the Relevant Contract. Award criteria must be defined in objective terms and wherever possible in descending order of importance.

12.16.7 A notice stating that the Council is not bound to accept any tender.

12.16.8 A notice stating that the Council is not obliged to enter into a contract as a result of a tender.

Contract Documents

12.17 All Relevant Contracts must be in writing.

12.18 All Relevant Contracts must as a minimum specify in writing:

12.18.1 The Works, Supplies or Services to be supplied.

12.18.2 The price and when it will be paid, including any arrangements for additional expenditure, disbursements etc.

12.18.3 The time or times within which the Supply, Service or Works is to be performed or delivered.

12.18.4 The provisions for the Council to terminate the agreement.

12.18.5 A clause prohibiting the Supplier from transferring or assigning, directly or indirectly, any portion of his/her Contract without written permission of the Council, or sub-letting any portion of his/her Contract other than that which is customary in the trade or profession concerned.

12.18.6 A clause empowering the Council to terminate the Relevant Contract and requiring the Supplier to provide an indemnity to the Council to cover all losses suffered by the Council resulting from fraud or an offence under the Bribery Act 2010 (or any statutory modification or replacement of this Act) in relation to a Relevant Contract, committed by a Supplier or one of his/her employees or agents.

12.18.7 A clause providing for payment of undisputed invoices within 30 days by the Council, Contractors and Sub-Contractors which complies with the Procurement Legislation. 12.18.8 For Relevant Contracts procured in accordance with the Procurement Legislationsany specific terms required to be included in the Relevant Contract under the Procurement Legislation. 12.19 All transactions must use an appropriate form of written agreement approved by the Chief Legal & Monitoring Officer.

12.20 Legal Services must be instructed prior to the start of a procurement exercise to produce an appropriate form of written agreement where:

12.20.1 The Total Value exceeds £50,000; or

12.20.2 The Relevant Contract is for leasing arrangements; or

12.20.3 The Responsible Officer is proposing to use a Contractor's own terms; or

12.20.4 The Relevant Contract is unusual or complex in any other way.

12.21 The Chief Legal & Monitoring Officer must also be consulted on the terms of any Collaborative agreement or external framework agreement in which the Council is proposing to participate with a view to procuring Supplies, Works or Services.

General

12.22 In the event that a low value Relevant Contract carries a disproportionate risk by means of concerning high risk services or service users, or carrying significant reputational, operational or financial risk, advice should be sought from Legal Services and the Assistant Director Commissioning and Procurement prior to any award.

12.23 No arrangements for payment in advance shall be entered into unless prior approval from Legal Services and Finance is obtained.

12.24 No Relevant Contract shall include an indemnity on behalf of the Council unless prior approval has been sought and obtained from Legal Services, in accordance with Part 3, Section 6 Finance Procedure Rules, any indemnity required to be provided by the Council must be approved by the Chief Legal and Monitoring Officer and Section 151 Officer before the Relevant Contract is entered into.

12.25 In entering into any Relevant Contract, or issuing a Purchase Order, officers must have regard to and ensure compliance with any relevant provisions of the Scheme of Delegation.

12.26 For Relevant Contracts awarded pursuant to the Procurement Act 2023, after 24 February 2025, that have a value greater than £5,000,000, a redacted copy of the awarded written agreement must be published within the timescales identified in the Procurement Legislation. Further, it shall be a requirement for those Relevant Contracts to contain a minimum of 3 key performance indicators, unless it could be reasonably determined that the supplier's performance under the Relevant Contract could not be appropriately assessed by reference to key performance indicators.

12.27 When determining the appropriate duration of a Relevant Contract to be procured, or whether to utilise a valid extension option, it is essential that officers consider not only the immediate financial implications but also the longer-term internal and external costs associated with the potential switching of supplier(s) or solution(s) when the term of the agreement concludes. For the avoidance of doubt, the cost of changing supplier must not be used as a criterion in determining the award of a Relevant Contract.

Bonds and Parent Company Guarantees

12.28 The Officer must in consultation with the Assistant Director Finance determine whether any additional security such as a bond or parent company guarantee may be required from the contractor who is awarded the Relevant Contract. If additional security may be required, this must be highlighted in the tender documents, using an appropriate form of words approved by the Chief Legal & Monitoring Officer.

Submission, Receipt, and Opening of Quotes or Tenders

12.29 Candidates/Suppliers must be given an adequate period in which to prepare and submit a proper quotation or tender consistent with the complexity of the Relevant Contract requirement and the law. Officers should have regard to policy commitments made in relation to procurement including the Third Sector Compact. Where the Procurement Legislation lays down minimum timescales these must be complied with.

12.30 The Responsible Officer is responsible throughout the procurement process for safeguarding its security, confidentiality and integrity.

Evaluation

12.31 Apart from the debriefing required or permitted by these CPRs the confidentiality of tenders and quotations and the identity of Candidates/Suppliers must be preserved at all times.

12.32 Tenders must be evaluated strictly in accordance with the Award Criteria. During this process the Responsible Officer must ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies in tenders are examined and resolved satisfactorily.

Clarification of Tenders

12.33 The advice of the Assistance Director of Commissioning and Procurement and Legal Services should be sought in respect of any clarifications during the procurement exercise which it is considered could impact on the integrity of the procurement process, the reputation of the Council or the outcome of the exercise, this includes at any stage of the procurement exercise.**Post Tender Discussions**

12.34 Discussion with Candidates/Suppliers after the submission of tenders with a view to obtaining adjustments in price, delivery or content must only take place in exceptional circumstances and with the approval of the Assistant Director Commissioning and Procurement and following

consultation with the Chief Legal & Monitoring Officer. Discussion must be conducted by a team of at least two officers.

12.35 Post tender discussion of a Relevant Contract procured in accordance with the Procurement Legislation may only be undertaken on the grounds permitted in the Procurement Legislation.

13 AUTHORISATION TO AWARD A CONTRACT

13.1 The Persons and bodies authorised to award Relevant Contracts are set out in the table below.

Total Contract Value	Decision Maker
£0 - £500,000	Director or an Officer authorised by the Director
£500,001 - £5,000,000	Director in consultation with the relevant Cabinet Member (written record to be kept)
£5,000,001 and above	Cabinet

13.2 The award of any Relevant Contract which is a Key Decision, including Call Offs from a Framework Agreement, Dynamic Purchasing System or Dynamic Market must include within the report to the decision maker the following information:

13.2.1 The price and details of the budgetary provision.

13.2.2 The number of tenders received.

13.2.3 The Tendering Process used.

13.2.4 The award criteria.

13.2.5 A risk assessment and risk management arrangements.

13.2.6 TUPE implications.

13.2.7 Recommendation of award.

13.2.8 Contract monitoring and management arrangements.

13.2.9 Any impact on the local economy, suppliers based in Cumbria and the third sector.

13.3 Where a number of similar Relevant Contracts are recommended to be awarded on or around the same time a composite report may be used.

Contracts for Legal Advice and/or Services

13.4 Relevant Contracts for the instruction of counsel or the procurement of external legal advisers may only be awarded by the Chief Legal and Monitoring Officer or a solicitor authorised by the Chief Legal and Monitoring Officer to award such a Relevant Contract.

Providing Services to Other Organisations

13.5 Where a Director proposes to apply to provide services to another organisation the Chief Legal and Monitoring Officer must be consulted about the terms and conditions on which the services are to be provided and regard had to the advice received.

13.6 As set out in Part 3, Section 6 Finance Procedure Rules of this Constitution, any indemnity required to be provided by the Council must be approved by the Chief Legal and Monitoring Officer and Section 151 Officer before an agreement is entered into.

Notification of Award

13.7 All Relevant Contract award decisions taken by Cabinet and Key Decisions taken by Directors are subject to scrutiny under the Council's procedures for call in set out in Part 3, Section 5 Overview and Scrutiny Procedure Rules of this Constitution.

13.8 The successful Candidate/Supplier must be notified that Relevant Contract award is subject to call in and award must not be confirmed until the call in period has expired, or if the decision is called in the procedures following call in have been completed.

13.9 Where the award of a Relevant Contract is subject to the Procurement Legislation the procedures for notification of Candidates/Suppliers and a standstill period must be followed in respect of the award.

13.10 If an award decision, including after the contract has been awarded, is challenged in any way the Responsible Officer must not proceed with the award the Relevant Contract and must refer immediately to the Chief Legal and Monitoring Officer.

14. CONTRACTS AND CONTRACT MANAGEMENT

Contract Formalities

14.1 Unless otherwise authorised by the Chief Legal & Monitoring Officer, all Relevant Contracts must be executed as follows:

Total Contract Value	Method of Completion	Authorised Officer
£0 - £50,000	Signature	Officer authorised by relevant Director or Assistant Director
£50,001 - £250,000	Signature by two officers Sealing (strategically or politically important contracts or those requiring a 12 year limitation period)	Director(s) and Assistant Director Officer authorised by the Chief Legal & Monitoring Officer to witness the seal
£250,001 and above	Sealing	Officer authorised by the Chief Legal & Monitoring Officer to witness the seal

14.2 Attesting of the Council's seal may only be undertaken by delegated officers within the authorised delegation of the Chief Legal & Monitoring Officer, following a decision taken by a

delegated officer within the relevant service area and recorded on the Council's central decision recording system.

14.3 Notwithstanding the provisions of paragraph 14.1, any Relevant Contract that meets any of the following criteria must be made under seal:

14.3.1 Any Relevant Contract that is required by law to be executed as a deed (which includes but is not limited to appointment of trustees, transfers of land, powers of attorney, some formal scheme amendments – please seek further guidance from Legal Services).

14.3.2 Any agreement that is otherwise executed as a deed (for example, agreements for no consideration or where it is uncertain as to whether any valuable consideration exists (i.e. there is no price or no obvious benefit to a party), where an extended limitation period is required (standard contracts have a 6 year limitation period whereas deeds have a 12 year limitation period).

Contract Management

14.4 Directors are responsible for ensuring that all Relevant Contracts relating to functions for which they are responsible are managed in accordance with a risk and contract management framework appropriate to the risk, value and impact of the contract. Directors are responsible for ensuring that these arrangements are kept up to date for the life of the Relevant Contract.

14.5 For every Relevant Contract managed in their directorate Directors are responsible for appointing a Responsible Officer, at an appropriate level for the risk, value and impact of the Relevant Contract, to manage it. .

14.6 In preparing the risk and contract management arrangements for a Relevant Contract, and managing the Relevant Contract, the Responsible Officer should follow the procedures set out in the Guidance.

14.7 Directors are responsible for identifying significant Relevant Contracts in their Directorate and ensuring that they are maintained in a corporate register of significant Relevant Contracts.

14.8 Significant Contracts are defined as those few, but important agreements critical to the Council's business objectives, financial stability and/or reputation, such as:

14.8.1 Contracts critical to the Council's delivery of statutory duties;

14.8.2 Contracts that pose significant risk (reputation and/or financial) and/or would have a significant impact in the event of relationship breakdown or supplier failure;

14.8.3 Contracts that, in the context of the Directorate budget and its ordinary contracts, are of significant value.

14.9 Directors are responsible for ensuring that Significant Contracts managed in their Directorate are regularly reviewed in their Management Team and for making areport with an action plan to the Corporate Management Team on at least a quarterly basis.

14.10 The Assistant Director Commissioning and Procurement is responsible for making a report at least annually to the Corporate Management Team of the issues raised with Significant Contracts during the year and an assessment of the implementation of actions included in Directorate exception report action plans.

15 MODIFICATION OF CONTRACTS DURING THEIR TERM

15.1 On the written application of a Director, the Assistant Director Commissioning and Procurement in consultation with the Chief Legal and Monitoring Officer is authorised to approve modifications to Relevant Contracts during their term. For the avoidance of doubt, a

modification includes an extension to the term or any other variation to the Relevant Contract that has been provided for in the terms and conditions.

15.2 Where the Relevant Contract has been procured under the Procurement Legislation it may only be modified if the modification may be made under the Procurement Legislation and is made in compliance with the Procurement Legislation.

15.3 Such modifications, changes, awards or amendments that are not compliant with the relevant Procurement Legislation may result in a legal challenge, which if upheld, could result in the termination of the Relevant Contract as well as reputational and financial harm for the Council. Prior to modifying any Relevant Contract, whether in terms of value, duration, scope or otherwise, advice must first be sought from the Assistant Director Commissioning and Procurement and the Chief Legal Services & Monitoring Officer.

15.4 Relevant Contracts may only be modified, changed or amended in very limited circumstances and regard should be had to:

15.4.1 Section 74 and Schedule 8 of the Procurement Act 2023, after 24 February 2025, in respect of contracts to which the Procurement Act 2023 applies;

15.4.2 Regulations 13 and 14 of the Provider Selection Regime Regulations in respect of contracts for Health Care Services. For the avoidance of doubt, Regulations 13 and 14 of the Provider Selection Regime Regulations applies to contracts for Health Care Services which were originally let prior to 1 January 2024; and

15.4.3 Regulation 72 of the Public Contracts Regulations 2015 in respect of contracts to which the Public Contracts Regulations 2015 apply.

15.5 Where the modification of a contract awarded after 24 February 2025 results in that contract exceeding the Procurement Threshold (a "convertible contract"), consideration must be had to Section 74 and Schedule 8 of the Procurement Act 2023.

15.6 The direct award of any contract exceeding the relevant Procurement Threshold must be made in accordance with the justifications set out in the relevant Procurement Legislation.

16. WAIVING THE CONTRACT PROCEDURE RULES

16.1 These CPRs are mandatory and must be adhered to at all times. A waiver to these CPRs must only be sought in exceptional circumstances, where it is demonstrated that adherence to these rules would be impractical or would cause a significant impediment to the fulfilment of an urgent or essential need. Such circumstances are rare and must be justified with clear, compelling, and documented evidence that all other procurement avenues have been exhausted or are unviable.

16.2 The request for a waiver must be presented in a detailed and structured manner to the relevant officer(s) as determined by the table below, paragraph 16.6, outlining the specific rule from which a waiver is sought, the exceptional circumstances warranting such a waiver, and the anticipated benefits of granting the waiver versus adhering to the established rules.

16.3 The decision to grant a waiver will not be taken lightly. The Officer(s) must assess the potential impact on competition, value for money, transparency, and fairness of the procurement process. A waiver may only be granted if it is in the public interest and complies with all relevant laws and regulations, including those pertaining to anti-corruption and fair trading and the Procurement Legislation.

16.4 A departure from these CPRs, whether by explicit reference or in principle, will require a waiver. Advice must be sought from Legal Services and the Assistant Director Commissioning and Procurement concerning any request for a waiver.

16.5 A decision to waive these CPRs must be recorded on the Council's central decision recording system and, if applicable, an appropriate notice under the relevant Procurement Legislation issued.

16.6 The table below sets out which officers are authorised to approve a waiver of the CPRs:

Contract Value	**Authorised Officer**
Up to £30,000	Service Assistant Director
£30,001 - £100,000	Service Assistant Director in consultation with the Assistant Director Commissioning and Procurement and Chief Legal & Monitoring Officer
£100,001 – Key Decision threshold	Director, in consultation with the Director of Resources, Assistant Director Commissioning and Procurement, and the Chief Legal Officer & Monitoring Officer. The relevant officer(s) shall consult the relevant Cabinet Member and the Cabinet Member with responsibility for Commissioning and Procurement, prior to any decision to grant a waiver being taken.
Above the Key Decision threshold - £5,000,000	Reserved to the Cabinet Member with responsibility for Commissioning and Procurement
Above £5,000,000	Reserved to Cabinet

Non-compliance

16.7 It is not possible to seek a waiver of the requirements of the Procurement Legislation.

16.8 Advice must be sought from the Chief Legal & Monitoring Officer and Assistant Director Commissioning and Procurement on a route to compliance.

16.9 The Assistant Director of Finance and the Assistant Director Commissioning and Procurement will report annually to Audit, Risk and Governance Committee on all exemptions, exclusions and non-compliance, with an interim report to be provided six months prior to the full report.

16.10 The Monitoring Officer will report any illegality in accordance with section 5 of the Local Government and Housing Act 1989.

17. NOTICES

17.1 The Council shall ensure that all notices required by the relevant Procurement Legislation are published within the timescales set out in that Procurement Legislation.

18. GRANTS

18.1 The award of grants of public money may invoke the provisions of the Subsidy Control Act 2022 and / or the Procurement Legislation. Advice should be sought from Legal Service as to the application of this legislation.

19 GLOSSARY OF TERMS USED IN CPRS

Accountable Body	The arrangement whereby the Council has agreed to accept responsibility for the obligations set out in the terms of any funding granted to a third party organisation.
Asset	Refers to any property of the Council, but does not include, for the purposes of the Contract Procedure Rules, land and buildings or rights relating to land and buildings.
Award Criteria	Has the meaning given in the Procurement Legislation,
Candidate/Supplier	Has the meaning given in the Procurement Legislation.
Centralised Procurement Authority	A Contracting Authority that is in the business of carrying our procurement for and on behalf of, or for the purpose of the supply of goods, services or works to other Contracting Authorities.
Consultant	An individual or firm (not being a firm of solicitors or a solicitor or barrister) procured to provide professional services, including advice.
Contracting Authority	Has the meaning given in the Procurement Legislation.
Contractor	Has the meaning given to the definition in the Procurement Legislation.
Contracts Register	The Council's database of contracts.
Council	Means Westmorland and Furness Council.
Exemption	A disapplication of the CPRs for reasons permitted in these CPRs or the Procurement Legislation.
Guidance	The Council's Procurement Cycle, Procurement Strategy and Commissioning Strategy and/or any replacement of such strategies from time to time in force.

Health Care Services	Has the meaning ascribed in the Common Procurement Vocabulary (CPV) codes set out at Schedule 1 to the Provider Selection Regime Regulations.
Lead Body	The arrangement whereby the Council is the applicant and/or recipient of an external grant or other funding for a special purpose.
Light Touch Services	Refers to those social and other services as described by the relevant Procurement Legislation.
Officer	An officer of the Council.
Partnership Arrangements	Non-contractual arrangements between the Council and one or more third parties to deliver common functions in collaboration with each other.
Procurement Legislation	Means the legislation which applies to the Council's procurement activity, as set out at paragraph 5.3 of these CPRs.
Procurement Threshold	The financial threshold at which Contracts must be procured in accordance with Procurement Legislation applicable at the time. Procurement Policy Note 11/23 – New Thresholds (HTML) - GOV.UK - Supplies & Services £214,904, Works £5,372,609, Light Touch Regime for Services £663,540 (correct as at Feb 2025).
Provider Selection Regime	Means the procurement regime for Health Care Services set out in the Health Care Services (Provider Selection Regime) Regulations 2023.
Relevant Authority	Has the meaning ascribed in the National Health Service Act 2006.
Relevant Contract	Means any agreement to which the Council is a party, including Framework Agreements, Dynamic Markets and Dynamic Purchasing systems for the provision of Services, Supplies or execution of Works.
Responsible Officer	The Officer who has the lead responsibility for the commissioning, procurement and/or management of a Relevant Contract.
Scheme of Delegation to Officers	Means the Council's Scheme of Delegation to Officers.
SME	Means small and medium enterprise.

Social and Other Specific Services	Has the meaning given in the Public Contracts Regulations 2015
Supplies, Services and Works	Has the meaning given in the Procurement Legislation.
Tender Process	Means the process to appoint a Contractor.
Total Value	Is the financial value of the Relevant Contract to be calculated in accordance with the Procurement Legislation and these PCRs.
VCFS	Means voluntary, community and faith sectors.
Waiver	The disapplication of these CPRs.

ANNEX

CONTRACT PROCEDURE RULES RELATING TO LAND AND PROPERTY

Introduction

The sale and acquisition of property by the Local Authority will always have a high profile. This is partly because the property in question is often located in the heart of communities and is therefore of considerable importance to those communities.

These Procedure Rules relate to the acquisition and disposal of land and property including freehold interests, leases (and the assignment of leases) and the granting of easements and licences. These Rules must be read and applied in conjunction with the Council's Officer's Scheme of Delegation, the Directors Local Scheme of Authorisation to Officers, the Property Disposal Policy and Community Asset Transfer Policy. The Property Disposal Policy only applies to freehold disposals and long leasehold disposals.

ESTABLISHING AND MANAGING THE SALES PROGRAMME

This will be undertaken in accordance with the Property Disposal Policy.

URGENCY

Sometimes property transactions are urgent.

Where it is considered that it is not reasonably practicable to delay a decision (which is not a key decision) until the transaction has appeared in a plan, other means of informing the relevant Overview and Scrutiny Committee in advance of the decision wherever possible will be followed.

Where it is not possible to involve the Overview and Scrutiny Committee in advance of the transaction, then in these circumstances a record of the decision, including the reasons for urgency, will be provided to the Committee as soon as is reasonably practicable. The Overview and Scrutiny Committee will, by these means, be able to hold the Cabinet Member/Portfolio Holder to account for their judgement in relation to urgency.

If a matter which is likely to be key decision has not been included in the Forward Plan, relevant General Exception and Special Urgency Procedures are set out in the Access to Information Procedure Rules in this Constitution.

SPECIAL PURCHASER STATUS

The status of 'Special Purchaser' will be determined having regard to the definition set out within the RICS Valuation Standards (relevant edition) by a Member of the Royal Institute of Chartered Surveyors (MRICS) within the council's Corporate Assets Team.

When such a transaction is proposed the bid of a special purchaser will either be above the market value because landed interests are being merged or the Council will be better able to pursue a particular policy objective. In either case a negotiated settlement is to be pursued rather than a tender or other competitive process. For special purchase transactions in which the Assistant Director Corporate Assets Fleet and Capital Programme is not minded to accept the special purchaser bid because it is considered to represent an undervalue the section below on Undervalue applies.

Where there is known to be a special purchaser and where the special value of such special purchaser transaction is £250,000 or more:

- A report proposing the use of the special purchaser regime will be submitted to the Cabinet Member/Portfolio Holder with oversight of land and buildings The Cabinet will take decisions in relation to the special purchase transaction.

- For special purchaser transactions where the special value of such special purchaser transaction is below £250,000, the decision to dispose and its terms will be delegated to the Assistant Director Corporate Assets, Fleet and Capital Programme in consultation with the Cabinet Member/Portfolio Holder with oversight of Assets and Property.

These provisions relating to special purchasers should be read in conjunction with the Property Disposal Policy. This provides, in part, that "In the event that the interested party is a special purchaser the valuation report should clearly set out the value on that basis making it clear that this would be the best price obtainable".

INTERESTS

The Members' Code of Conduct in relation to declaration of interest applies to property transactions. Members taking decisions (or engaging in policy development or scrutiny) will wish to consider whether the nature of the transaction, the identity of the other party to the transaction and/or the location of the property gives rise to a disclosable pecuniary or other registrable interest..

Interests may arise due to the location of the property being in the area where the elected member resides, being in the electoral division which the member represents, or for some other reason to do with the private or public life of the member.

The Cabinet Member/Portfolio Holder will not use delegated powers in relation to property transactions in their own ward.

LOCAL MEMBER

The programme of sales and property transfers will be forwarded to the three Locality Managers and Locality Board chairs for information and communication to Local Members.

TOWN/PARISH COUNCILS

A copy of the surplus assets for current service needs will be sent to all Town and Parish Councils. The local council where a property transaction is proposed will be informed prior to any public marketing taking place.

VALUATIONS FOR ACQUISITION AND DISPOSAL

All valuations and negotiations shall be the responsibility of the relevant Director responsible for land and buildings (or as delegated). Anyone undertaking the negotiations on their behalf must have appropriate written delegation and must be a qualified Member of the Royal Institution of Chartered Surveyors.

All valuations prepared for the purpose of a transaction must be accompanied by evidence of the values or comparable properties in the locality, or if possible evidence of recent, similar transactions carried out by the Council.

ACQUISITIONS

These Procedure Rules supplement existing arrangements to plan and report proposed acquisitions through the capital programme.

Where a property acquisition is proposed which, for any reason, has not appeared on the capital programme, the relevant Overview and Scrutiny Committee will be given the opportunity to consider the proposal, or if genuine urgency prohibits this, to subsequently receive a report outlining the details of the acquisition.

No purchase of land or property (freehold or leasehold) may be made without the prior approval of an officer delegated to do so by the Council's Constitution and the Director's Local Scheme Financial Scheme of Delegation. In order to do this the information detailed below must be provided for by this officer (reference to purchase includes the acquisition of a licence):

(a) a complete description of the land or property that is being considered for purchase;

(b) a full business case (where appropriate and determined by the relevant officer in consultation with the relevant Cabinet Member for land and property) or similar report detailing the reasons for the purchase;
(c) any information that may affect the value of the property or land, including structural and environmental reports;
(d) the proposed purchase price or rental value together with evidence of the prices for similar properties in the location (where comparables are available);
(e) evidence of local member consultation;
(f) evidence of consultation with the Cabinet Member with oversight of Assets and Property
and
(g) any other terms and conditions (to be determined by the Assistant Director for Corporate Assets, Fleet and Capital Programme).

The officer must retain all of this evidence for six financial years after the acquisition has been completed.

Where a company introduces an investment opportunity to the Council for a fee, this does not require a competitive exercise and is exempt from the Public Contracts Regulations 2015. In this situation the Council is not seeking offers or scoping or specifying a service. The Council is responding to an offer that would otherwise not be available to them.

Disposals

The Council's Disposal Policy sets out the principles and approach by which the Council will dispose of property assets. Disposals for this purpose means those property assets declared surplus to current service needs and to be sold on the open market (excluding service devolution and [disposals of the school estate], housing portfolio and highways infrastructure). The detailed process to be followed for property disposals (and the preliminary steps involved in each decision to dispose) is contained within the Open Market Sales Procedure that is stated in the Council's Property Disposal policy.

If the estimated value (combined value where more than one property is to be disposed of) of the property is greater than £500,000, disposal capital value or aggregate rental value over the term of the lease, a decision on the sale or transfer must be made following the key decision process.

Upon the approval of the Surplus Asset List for current service needs by Cabinet and inclusion in the Capital Programme for approval by Full Council the decision to dispose has been delegated to the Director of Resources.

For disposals under £100,000 these will be classed as operational decisions with a record of the decision being taken.

For all disposals of £100,000 or more an Officer Delegated Decision is required and the rules for publication must be followed
For anything of over £500,000 or anything which has a significant effect on 2 or more wards a key decision will be required and the rules for publications must be followed.

Delegated decisions must take account of the Special Purchaser requirements described above.

The authorisation and granting of leases of over 125 years is reserved to the Cabinet (with the exception of academy leases which will be granted in accordance with statutory requirements).

Prior to a disposal being authorised, the following must be considered:

a) a complete description of all the land and/or property to be included in the disposal;
b) confirmation that the title of the land is owned by the Council (or in the case of licences that the Licence is still extant and capable of transfer);
c) the legal status of the land and the basis on which it was acquired and is now held;
d) any procedural requirements that may be necessary to dispose of the land and any impediments to development of the land (if relevant);
e) confirmation that the Council has power to dispose of the land;
f) the reason for the disposal and any restrictions which this may impose;

g) a report on any information which is held by the Council on the previous use of the land which may affect its value (e.g. if the site was contaminated);
h) a report of a professionally qualified valuer as to current market valuation;
i) evidence of local Member consultation;
j) recommendations on the following:
    i) issues that need to be resolved before marketing the land and/or property can commence;
    ii) the preferred method of disposal (for example, private treaty/public auction/formal or informal tender);
    iii) the title to be transferred;
    iv) steps that need to be undertaken to maximise the value of the asset prior to disposal e.g. planning applications;
    v) a guide price;
    vi) any other appropriate terms and conditions.

Where it has been decided that the disposal of the land and/or property will be by formal tender, the requirements of the Council's Disposal Policy will be complied with.

Undervalue

Under section 123 Local Government Act 1972, the Council may dispose of Council land subject to a duty to obtain best consideration (other than a tenancy the term of which does not exceed 7 years). However, there may be circumstances where the Council considers it appropriate to dispose of assets at an undervalue (i.e. less than the best consideration that can reasonably obtained).

Section 128(1) of the Local Government Act 1972 (1972 Act) confers on the Secretary of State power to give a general consent (Consent) for the purposes of land disposals by local authorities carried out under their powers in Part 7 of the 1972 Act. The terms of the Consent mean that specific consent is not required for the disposal of any interest in land which the Council considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. In all cases, disposal at less than best consideration is subject to the condition that the undervalue does not exceed £2,000,000 (two million pounds).

In determining whether or not to dispose of land for less than the best consideration reasonably obtainable , and whether or not any specific proposal to take such action falls within the terms of the Consent, the Council should ensure that is complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue evidenced by an RICS Red Book compliant valuation. When disposing of land at an undervalue, the Council must fulfil its legal and fiduciary duty in a way which is accountable to local people.

All disposals must also comply with the Subsidy Control Act 2022.

A disposal at an undervalue of £250,000 or more will be a key decision taken by Cabinet, will appear on the Forward Plan.

With the exception of Community Asset Transfers (below) a disposal at an undervalue of below £250,000 is delegated to the Assistant Director Corporate Assets, Fleet and Capital Programme in consultation with the Cabinet Member/Portfolio Holder with oversight of Assets and Property.

Community Asset Transfers (CAT)

When the Council proposes to make a disposal by way of community asset transfer, a RICS Red Book compliant valuation will be carried out to establish the open market value of the land. A community asset transfer will usually involve a disposal of land at an undervalue and a Cabinet decision will be required.

The Assistant Director (Corporate Assets, Fleet and Capital Programme) has delegated authority subject to consultation with the relevant Cabinet Member for Assets to authorise the extension of previously approved leasehold CATS to provide for the furtherance of the Council's CAT objectives or to secure grant funding.

A Community Asset Transfer Group will be established which will include the Assistant Director for Corporate Assets, Fleet and Capital Programme, the Assistant Director for Safe & Strong Communities and the Assistant Director for Community Infrastructure and where required officers from other relevant directorates.

The Community Asset Transfer Group will:

8.10.1.1.1 Carry out an assessment of all Community Asset Transfer applications.

8.10.1.1.2 Be responsible for declining any applications which do not meet the criteria and making recommendations to Cabinet in respect of any applications which do meet the criteria such recommendations to be made in consultation with the Leader, Cabinet Member for Highways and Assets and Cabinet Member for Sustainable Communities and Localities.

Each application for a Community Asset Transfer will be assessed on its own merits in the context of the framework set out in the CAT policy.

Any decision to approve a Community Asset Transfer will be reserved for Cabinet with exception to the extension of previously approved leasehold CATS to provide for the furtherance of the Council's CAT objectives or to secure grant funding.

Part 3 – Section 8 – Employment Procedure Rules

1 PURPOSE

1.1 These Rules set out the procedural rules dealing with the appointment and dismissal of staff. This includes mandatory standing orders required by statute.

2 RECRUITMENT AND APPOINTMENT

All staff to be appointed on merit

2.1 Subject to those exceptions set out in section 7 and section 9 of the Local Government and Housing Act 1989, every appointment of a person to a paid office or employment under the Authority (an officer of the Council) shall be made on merit. Nothing in this rule shall prevent regard to a person's political affiliations being taken into account in determining whether they should be appointed to a role as a Political Assistant under Rule 6.

Declarations

2.2 Any candidate for any designation or appointment with the Council who knows that they are related to a Councillor or employee of the Council shall, when making an application, disclose, in writing, that relationship. A person who deliberately fails to disclose such a relationship shall be disqualified from designation or appointment and, if designated or appointed, shall be liable to dismissal.

2.3 Every Councillor and employee of the Council shall disclose any relationship known to them to exist between themself and any person they knows is a candidate for a designation or appointment by the Council.

Seeking support for appointment

2.4 Any candidate for designation or appointment who directly or indirectly seeks the support of a Councillor or officer of the Council in any designation or appointment shall be disqualified and, if designated or appointed, shall be liable to dismissal. A Councillor shall not solicit for any person in respect of any designation or appointment with the Council but may give a written testimonial of a candidate's ability, experience or character.

2.5 Persons shall be deemed to be related to a candidate or officer if they are a spouse, civil partner, partner (i.e. member of a couple living together) parent, parent-in-law, grandparent, child, step-parent stepchild, adopted child, grandchild, child of partner, brother, sister, uncle, aunt, nephew or niece or the spouse or partner of any of the preceding persons. This list is indicative, and a judgement will be made based on the closeness of the relationship.

2.6 No candidate so related to a Councillor or senior officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by them.

3 RECRUITMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

3.1 A Chief Officer and a Deputy Chief Officer means those officers of the Council as defined by Part 1 of the Localism Act 2011

3.2 Where the Council proposes to appoint a Chief Officer or Deputy Chief Officer, and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

3.2.1 draw up a statement specifying the duties of the post concerned and a specification of the qualifications or qualities to be sought in the person to be appointed;

3.2.2 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

3.2.3 make arrangements for a copy of the statement mentioned in paragraph above to be sent to any person on request.

3.3 Where a post has been advertised as above, the Council will interview all qualified applicants for the post or select a short-list of such qualified applicants and interview those included on the short-list.

3.4 Where the Council is of the view that there is no suitable candidate, it will re-advertise the post.

4 APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

4.1 Where the Council proposes to appoint to a Chief Officer position the Staffing Committee will oversee the arrangements for the filling of the vacancy and may appoint a sub-committee for this purpose (Appointment Panel). The Committee or the Appointment Panel sub-committee exercising responsibility for this function must include at least one Cabinet Member.

4.2 The Committee, or the Appointment Panel, shall make appointments to all Chief Officer posts, (except those referred at Rule 5 below which require a report and recommendation to be made to full Council).

4.3 The Committee or the Appointment Panel sub-committee may make appointments to any or all Deputy Chief Officer posts or may delegate such appointments to the Head of Paid Service.

4.4 An offer of an appointment as a Chief Officer or Deputy Chief Officer must not be made by the Council, Committee, Appointments Panel or Head of Paid Service as the appointor until–

4.4.1 the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

4.4.2 the proper officer has notified every Member of the Cabinet of the authority of–

(a) the name of the person to whom the appointor wishes to make the offer;

(b) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and

(c) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and

4.4.3 either–

(a) the Leader has, within the period specified in the notice, notified the appointor that neither they, nor any other member of the cabinet, has any objection to the making of the offer;

(b) the proper officer has notified the appointor that no objection was received within that period from the Leader; or

(c) the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

5 APPOINTMENT OF HEAD OF PAID SERVICE, MONITORING OFFICER AND THE CHIEF FINANCE (S.151) OFFICER

5.1 The full Council must appoint the Head of Paid Service following consideration of a recommendation of the Staffing Committee, or Appointment Panel, as to the person to be appointed.

5.2 The full Council shall appoint the Monitoring Officer and the Chief Finance (S.151) Officer following consideration of a recommendation of the Staffing Committee, or Appointment Panel, as to the person to be appointed.

5.3 The procedure set out at Rule 4.4 in respect of notifying the Leader and Cabinet also applies in respect of these three posts.

5.4 The full Council shall also appoint the officer designated as the Returning Officer and the Electoral Registration Officer.

5.5 Where the Council does not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.

6 APPOINTMENT OF POLITICAL ASSISTANTS

6.1 Each of the three largest political groups may (whilst they remain "qualifying groups" in accordance with the requirements of section 9 Local Government and Housing Act 1989) appoint one Officer to act as a political assistant. Such appointments will be made in accordance with the wishes of the political group making the appointment but will be on terms as to remuneration and period of office that comply with the requirements of s9 of the Local Government and Housing Act 1989.

6.2 Appointments of political assistants may only be made in accordance with wishes of the relevant political group making the appointment and no arrangements will be made to allocate a political assistant to a non-qualifying group or to allocate more than one political assistant to any political group.

7 DISCIPLINARY ACTION IN RESPECT OF HEAD OF PAID SERVICE, THE MONITORING OFFICER AND THE CHIEF FINANCE OFFICER (S.151 OFFICER)

7.1 The Head of Paid Service, Monitoring Officer or Chief Finance Officer and other Chief Officer(s) may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months without a review of such suspension first taking place. The proceedings will be dealt with in accordance with the Council's agreed policy. The requirements of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) and the Model Disciplinary Procedure A (England) of the Conditions of Service Handbook of the Joint Negotiating Committee for Local Authority Chief Executives (13th October 2016) and accompanying Guidance give effect to these provisions and will be used in circumstances where disciplinary action against the Head of Paid Service, Monitoring Officer or s151 Officer is contemplated

7.2 **Potential for dismissal** – Disciplinary action or situations in which there is the potential to dismiss either the Head of Paid Service, Monitoring Officer or Chief Finance Officer on the grounds of misconduct and potential to dismiss for other reasons such as capability and some other substantial reason will require the involvement of an Independent Investigator. Where it results in a proposal to dismiss, it will require the involvement of an Independent Panel before the Council considers the proposal (in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015)).

7.3 **Procedure** – The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer (S.151 Officer) may not be dismissed by the Council unless this procedure is complied with.

7.3.1 The Council must invite relevant Independent Persons to be considered for appointment to an Independent Persons Panel, with a view to appointing at least two such persons to the Panel.

7.3.2 The "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.

7.3.3 The Council must appoint to the Independent Persons Panel such relevant independent persons who have accepted an invitation issued in accordance with Procedure Rule 6.2 in accordance with the following priority order:

(a) a relevant Independent Person who has been appointed by the Council and who is a local government elector;

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

(c) a relevant Independent Person who has been appointed by another authority or authorities

(d) The Council is not required to appoint more than two relevant Independent Persons but may do so.

(e) The Council must appoint any Independent Persons Panel at least 20 working days before the relevant meeting.

(f) Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:

(i) any advice, views or recommendations of the Independent Persons Panel

(ii) the conclusions of any investigation into the proposed dismissal; and

(iii) any representations from the relevant officer.

(g) Any remuneration allowances or fees paid by the Council to an Independent Person appointed to the Independent Persons 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 Localism Act 2011.

8 DISCIPLINARY ACTION AND DISMISSAL OF, AND DISCIPLINARY ACTION AGAINST, CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

8.1 Subject to Procedure Rule 6 above, the Head of Paid Service, or an officer nominated by them, is authorised to discharge the functions of dismissal of, and taking disciplinary action against, Chief Officers and Deputy Chief Officers.

9 CONSULTATION WITH CABINET MEMBERS

9.1 No notice of dismissal, in relation to a Chief Officer or Deputy Chief Officer must be issued by the Council, Committee, Appointments Panel or Head of Paid Service as the dismissor until—

9.1.1 the dismissor has notified the proper officer of the name of the person to be dismissed and any other particulars which are relevant to the dismissal;

9.1.2 the proper officer has notified every member of the Cabinet of:

(a) the name of the person to be dismissed:

(b) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and

(c) the period within which any objection to the proposed dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and

9.1.3 either–

(a) the Leader has, within the period specified in the notice, notified the dismissor that neither they, nor any other member of the Cabinet, has any objection to the proposed dismissal;

(b) the proper officer has notified the dismissor that no objection was received within that period from the Leader; or

(c) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

10 OTHER OFFICERS

10.1 The function of appointment or dismissal of, and taking disciplinary action against, any officer other than a Chief Officer or Deputy Chief Officer must be the responsibility of the Head of Paid Service, or their nominee.

10.2 Councillors will not be involved in the appointment, dismissal of or taking disciplinary action against any officer other than a Chief Officer or Deputy Chief officer, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, although the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of disciplinary action resulting in dismissal only.

10.3 Any disciplinary action will be taken in accordance with the Council's Disciplinary Policy and Procedure, as adopted from time to time.

11 NO DIRECTIONS TO BE GIVEN TO PERSONS MAKING APPOINTMENTS OR TAKING DISCIPLINARY ACTION

11.1 Save as specifically provided for elsewhere in these Standing Orders, neither the Council nor the Cabinet or its Committees or Overview and Scrutiny meeting or an individual Councillor, nor any other person shall directly or indirectly:

11.1.1 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;

11.1.2 give directions about the taking of any disciplinary action in relation to a person in the paid service of the Council; or

11.1.3 otherwise interfere with the making of such an appointment or the taking of disciplinary action.

12 STATEMENT OF PAY POLICY

12.1 A statement of the Council's pay policy will be published annually

Westmorland & Furness Council

Part 4
Codes and Protocols

PART 4 CONTENTS PAGE

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Part 4 – Section 1 – Code of Conduct for Councillors

Definitions

For the purposes of this Code of Conduct, a "councillor" means a member or co-opted member of a local authority or a directly elected mayor. A "co-opted member" is defined in the Localism Act 2011 Section 27(4) as "a person who is not a member of the authority but who

a) is a member of any committee or sub-committee of the authority, or;

b) is a member of, and represents the authority on, any joint committee or joint sub- committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee".

For the purposes of this Code of Conduct, "local authority" includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1 RESPECT

As a councillor:

1.1 **I treat other councillors and members of the public with respect.**

1.2 **I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor- officer protocol.

2 BULLYING, HARASSMENT AND DISCRIMINATION

As a councillor:

2.1 **I do not bully any person.**

2.2 **I do not harass any person.**

2.3 **I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in virtual meetings, emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3 IMPARTIALITY OF OFFICERS OF THE COUNCIL AS A COUNCILLOR:

3.1 **I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4 CONFIDENTIALITY AND ACCESS TO INFORMATION AS A COUNCILLOR:

4.1 **I do not disclose information:**

4.1.1 **given to me in confidence by anyone**

4.1.2 **acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**

(a) I have received the consent of a person authorised to give it;

(b) I am required by law to do so;

(c) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

(d) the disclosure is:

(i) reasonable and in the public interest; and

(ii) made in good faith and in compliance with the reasonable requirements of the local authority; and

(iii) I have consulted the Monitoring Officer prior to its release.

4.2 **I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

4.3 **I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5 DISREPUTE

As a councillor:

5.1 **I do not bring my role or local authority into disrepute.**

As a councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6 USE OF POSITION

As a councillor:

6.1 **I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7 USE OF LOCAL AUTHORITY RESOURCES AND FACILITIES

As a councillor:

7.1 **I do not misuse council resources.**

7.2 **I will, when using the resources of the local authority or authorising their use by others:**

7.2.1 **act in accordance with the local authority's requirements; and**

7.2.2 **ensure that such resources are not used for political purposes.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8 COMPLYING WITH THE CODE OF CONDUCT

As a Councillor:

8.1 **I undertake Code of Conduct training provided by my local authority.**

8.2 **I cooperate with any Code of Conduct investigation and/or determination.**

8.3 **I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

8.4 **I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9 INTERESTS

As a councillor:

9.1 **I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10 GIFTS AND HOSPITALITY

As a councillor:

10.1 **I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**

10.2 **I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

10.3 **I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

APPENDIX A – THE SEVEN PRINCIPLES OF PUBLIC LIFE

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

APPENDIX B – REGISTERING INTERESTS

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable pecuniary interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or 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.

1 You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

2 A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.

3 Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

"Standard Dispensation" means a dispensation that has been granted by the Authority relieving the member or co-opted member from the restrictions or obligations under this Code as detailed in **Table 3** below.

Non participation in case of disclosable pecuniary interest

4 Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room/meeting unless you have been granted a dispensation. In addition, you may speak on the matter only if members of the public are also allowed to speak and having spoken you must leave the room/meeting. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5 Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registrable Interests

6 Where a matter arises at a meeting which ***directly relates*** to one of your Other Registrable Interests (as set out in Table 2), you must disclose the interest. If you have such an interest you must consider whether a reasonable member of the public, knowing all the facts, would think the interest such that it may influence the way you vote. If the ordinary person would think that the interest may influence your vote then you should not participate in the matter. In these circumstances you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter. If it is a 'sensitive interest', you do not have to disclose the nature of the interest

Disclosure of Non-Registrable Interests

7 Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if

members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8 Where a matter arises at a meeting which ***affects*** –

8.1 your own financial interest or well-being;

8.2 a financial interest or well-being of a friend, relative, close associate; or

8.3 a financial interest or wellbeing of a body included under Other Registrable Interests set out in Table 1

you must disclose the interest. In order to determine whether you may participate in the meeting after disclosing your interest the following test should be applied:

9 Where a matter ***affects*** your financial interest or well-being so that a reasonable member of the public knowing all the facts would believe that it may affect your view of the wider public interest you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10 Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge) – (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	Any beneficial interest in securities* of a body where – (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either – (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect: a) Any unpaid directorships

b) any body of which you are in general control or management and to which you are nominated or appointed by your authority

c) any body

(i) exercising functions of a public nature
(ii) any body directed to charitable purposes or
(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management

The requirement to disclose an Other Registerable Interest and not participate in a decision directly relating to or affecting it, shall be applied in such a manner as to recognise that this Code should not obstruct a member's service on more than one local authority. For the avoidance of doubt, participation in discussion and decision making at one local authority will not by itself normally prevent you from taking part in a discussion and decision making on the same matter at another local authority. This is on the basis that a reasonable member of the public will see no objection in principle to such service or regard it as prejudicing a member's judgement of the public interest and will only regard a matter as giving rise to bias in exceptional circumstances.

Table 3: Standard Dispensations

1. You will not be regarded as having a prejudicial interest in any business of your authority in respect of any Other Registerable Interest:

   (a) where that business relates to:

   (i) another local authority of which you are also a member;
   (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
   (iii) a body to which you have been elected, appointed or nominated by your authority, but only in the circumstance where the sole purpose of participating is to make representations, answer questions or give evidence relating to the business at the request of the Committee meeting;
   (iv) your role as a school governor, unless it relates particularly to the school of which you are a governor; or
   (v) your role as a member of a National Health Service board or governing body;

   (b) except that no dispensation described in sub-paragraph (a) above will apply where the business to be transacted at the meeting is the determination of any regulatory approval, consent, licence, permission or registration (for example, determination of an application for planning permission or consent or licence under the Licensing Act 2003).

2. You will not be regarded as having a prejudicial interest in any business where that business relates to:

   (a) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;

   (b) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental

responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;

(c) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;

(d) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;

(e) any ceremonial honour given to one or more Members; or

(f) the setting of the authority's council tax requirement, council tax, levy or a precept under the Local Government Finance Act 1992 (except that this dispensation does not apply if you are two months or more in arrears with their Council Tax you must declare this to the meeting and must not vote on budget recommendations, as to do otherwise can be a criminal offence)

Part 4 – Section 2 – Officer Code of Conduct

1 INTRODUCTION

1.1 The public are entitled to expect the highest standards of conduct from all officers who work within local government. This Code of Conduct outlines existing laws, regulations and conditions of service, and provides officers 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:

1.2.1 detailing existing laws, regulations and conditions of service;

1.2.2 providing further guidance to assist officers in their day-to-day work; and

1.2.3 specifying standards and procedures which will help protect both the Council and its officers from misunderstanding and undue criticism.

1.3 The Council's values support this code, by providing further guidance in relation to how officers need to conduct themselves in the workplace. Further information on these values is in a number of policies, procedures, guidelines and service standards which the Council has developed, to be read in conjunction with this Code.

1.4 The adopted Code applies as part of the conditions of service of all officers working under a contract of employment with the Council. It also applies to staff in schools where the Code has been adopted by the Governing Body as the employer. All officers are expected to read, understand and accept the Code, and abide by the standards of behaviour expressed within it. The standards specified in the Code 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.

1.5 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 1972 and Local Government Act 2000, but seeks to clarify and consolidate all such conduct issues within a locally adopted code.

1.6 This Code sets out the minimum standards that apply to officers. It may be supplemented and clarified by Directorate or other corporate guidance as appropriate.

1.7 The following core principles underpin the concept of public service and apply to all officers of the Council regardless of the nature of the job they do:

1.7.1 **Selflessness**: Holders of public office should take decisions solely in the terms of the public interest.

1.7.2 **Integrity**: Holders of public office should not place 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**.

1.7.3 Objectivity: Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

1.7.4 **Accountability**: Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

1.7.5 **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.

1.7.6 **Honesty**: Holders of public office should be truthful.

1.7.7 **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.

1.7.8 **Duty**: You must uphold the law and act in accordance with the council's constitution and the public trust placed in you. You have a duty to act in the interests of the council as a whole and all communities served by the council.

1.7.9 **Respect**: You must respect all other officers, members, partners and the public. You must not act in a disrespectful way towards any individual because of a protected characteristic or for any other reason.

1.8 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 and / or Capability Procedure. This Code supplements, and does not replace any code or recognised standards of conduct endorsed by any professional body of which an officer is a member. If officers have any queries or are uncertain about its content, they should contact their line manager for advice.

2 GENERAL PRINCIPLES

2.1 Where it is part of their duties to advise, officers must provide any advice impartially. This includes advice to Councillors, colleagues, customers, contractors and the public.

2.2 If an officer becomes aware of activities which they consider to be illegal, improper, unethical or otherwise inconsistent with this Code, they must report it to their manager (or next appropriate manager) as soon as possible. Information on whistleblowing is also available on the Council's website.

2.3 Responsibility is placed on every employee to disclose to an appropriate manager any potential conflict of interest which may affect them in their job role.

2.4 Officers must not misuse their position, council information or any Council resources or equipment to further their own or others personal interests.

2.5 It is not enough for officers to simply avoid a breach of this Code. At all times, officers must act in such a way to avoid any occasion for suspicion and any appearance of improper conduct. This includes activities both in and outside of the normal place of work, and includes work related functions e.g. leaving celebrations. It also includes occasions outside of work where an employee makes themselves identifiable as an employee of this Council e.g. social media activities, wearing a uniform, driving a Council vehicle etc.

3 DISCLOSURE AND CONFIDENTIALITY OF INFORMATION

3.1 The Council is required by law to make certain types of information available to Councillors, auditors, government departments, service users, regulators and the general public. However, prior to the release of any data or information an employee must consider and be confident that this is not in breach of data protection legislation, or other legal or Council requirements for confidentiality. If in any doubt, officers must check with their manager prior to the release of the information.

3.2 Personal data obtained in the course of employment should always be treated confidentially and only be disclosed in accordance with data protection legislation or other legal or Council requirements.

3.3 Officers must comply with all current legislation, such as the Data Protection Act and Freedom of Information Act regarding the disclosure of information and the Council's associated policies and procedures. Further information and advice on responsibilities under the Act are available from the Council's Data Protection Officer.

3.4 Officers should not use any information obtained in the course of their work for personal gain or benefit, nor should they pass it on to others who might use it in such a way. If officers receive specific information, from whatever source, in the course of carrying out their duty, they should not divulge it, except where such disclosure is required or sanctioned by the law.

3.5 Officers 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.

3.6 Officers should be aware that in the course of their work, they may have access to personal or otherwise confidential information, some of which may fall within the scope of the Data Protection Legislation. The Council expects officers to respect the confidentiality of all information, both during and subsequent to a period of employment with the Council, in accordance with its Data Protection Policy.

3.7 The leaking of confidential or exempt information to a third party may be viewed as a disciplinary matter, and may also result in legal action being taken.

4 POLITICAL NEUTRALITY

4.1 Officers serve the Council as a whole, and must serve all Councillors equally and ensure that the individual rights of Councillors are respected. Officers must not allow their personal or political opinions to interfere with their work or their behaviour at work.

4.2 Where an employee is requested to advise a full meeting of a political group or its executive, the Chief Executive must be informed by the employee in advance of the meeting. In providing the advice, political neutrality must be maintained. In addition, any advice given should be made available to all political groups, if requested.

4.3 Certain officers hold politically restricted posts. If your job is politically restricted, you will be notified, and you will be prevented from taking up certain roles, for example becoming a member of a local authority (other than parish councils); becoming an MP or MEP; holding office in a political party, and canvassing, speaking in public or writing on party political matters.

5 RELATIONSHIPS AT WORK

5.1 Officers must declare to their manager any situation where their impartiality, objectivity, or honesty may be compromised due to them being related to, or having a close personal relationship with someone at work.

Councillors

5.2 Mutual respect between officers and Councillors is essential. Some officers work closely with Councillors, and all communication should be dealt with in a polite, impartial and efficient manner. Officers are expected to inform elected members on relevant issues in a timely manner. Close personal familiarity between officers and individual Councillors must be avoided at all times to prevent damage to the relationship and embarrassment to individuals and the Council.

The Local Community and Service Users

5.3 Officers should always remember their responsibilities to the community and ensure a polite, impartial and efficient service delivery to all groups and individuals within that community.

Contractors / Suppliers / Procurement / Tendering

5.4 All relationships of a business or personal nature with external contractors or suppliers must be declared to the employee's line manager at the earliest opportunity. Arrangements for any appropriate steps to be taken to manage any conflict of interest will then be made.

5.5 Orders and contracts must be awarded in accordance with the Council's procedures and no special favour must be shown to businesses or individuals.

5.6 Officers whose work involves the procurement, appointment or supervision of contractors must disclose any former or current private or official relationships with contractors to their Line manager.

5.7 Officers must not make official professional decisions about matters in which they have a personal involvement. Officers must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others.

5.8 When a conflict of interest is disclosed, the Council reserves the right to remove the employee from any areas of direct or indirect involvement in the matter concerned.

6 APPOINTMENTS AND OTHER EMPLOYMENT MATTERS

6.1 Appointment and employment decisions must be made in accordance with Council policies and procedures.

6.2 To avoid accusations of bias, officers must not be involved in appointment processes where they are related to or have a close personal relationship with an applicant.

6.3 All officers are required to disclose to their Assistant Director any relationship known to exist between them and any person who they know is a candidate for an appointment with the Council.

6.4 Officers should not be involved in other employment related decisions for officers who are a relative or with whom they have a close personal relationship, nor should they attempt to influence such decisions. This includes decisions on matters such as discipline, promotion or pay adjustments.

7 OUTSIDE COMMITMENTS

7.1 Officers must not allow their personal interests to conflict with or be detrimental to their duties or Council business.

7.2 All Officers, irrespective of hours worked, must not engage in any other business or take up any additional employment or other appointments without the agreement of the Council. Officers requesting such agreement should contact their line manager who will discuss and seek agreement with the Assistant Director or individual nominated within the service area.

7.3 The Council will not unreasonably prevent officers from taking additional employment, but in accordance with their obligations as an employer, however, the Council will not approve any additional employment that, in the view of the Council, has the potential to conflict with, or be detrimental to the Council's interest or in any way weaken public confidence in the conduct of its business or is contrary to any legal provision or obligation on the part of the Council as employer including ensuring compliance with Working Time Regulations.

7.4 Officers are not permitted to carry out private trading in relation to goods, services or any form of intellectual property on the Council's premises nor may they do so elsewhere whilst on Council duties.

8 PERSONAL INTERESTS

8.1 All officers, regardless of their SCP, must declare to their Assistant Director, any financial or non-financial interests which they consider could bring about conflict with the Council's interests.

8.2 It is a legal requirement for officers to formally declare any contracts with the Council in which they have a pecuniary interest. Such declarations should be sent to their relevant Executive Director. It is a criminal offence to fail to comply with the provision.

8.3 Officers must not make official professional decisions on behalf of the Council about matters in which they have a personal involvement.

9 EQUALITY

9.1 All members of the community, customers and officers have the right to be treated with fairness and equality. Officers must behave in a way that supports equality, dignity and respect and must observe the Council's Equality Scheme and other employment policies outlined in the Employee Handbook.

9.2 Unlawful discrimination, harassment and victimisation on any basis including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex; and sexual orientation will not be tolerated and will be dealt with through disciplinary procedures.

10 SEPARATION OF ROLES DURING TENDERING

10.1 Officers involved in a tendering process and/or dealing with contractors must ensure they carry out their duties in a clear, transparent and fair way.

10.2 There must be a clear separation of client and contractor roles. Senior officers who have both a client and contractor responsibility must ensure clear accountability, transparency and openness.

10.3 Officers in contractor or client services must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and subcontractors.

10.4 Officers who have access to confidential information on tenders or costs relating to either internal or external contractors must not disclose that information unless there is clear and specific authorisation to do so.

10.5 Officers must declare any relationship which may have the potential to conflict with the tendering process or could be perceived by others as a potential reason for bias.

11 FRAUD OR CORRUPTION

11.1 It is a serious criminal offence for officers 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 their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly given or received. This applies equally to bodies already holding contracts as to those seeking to secure contracts.

11.2 Officers must declare any personal or pecuniary interests in contracts which the Council is proposing to enter into, in accordance with the procedures set out in Sections 7 and 8, and observe the procedures for dealing with gifts and hospitality in Section 13.

11.3 Officers 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.

12 USE OF FINANCIAL RESOURCES

12.1 Officers must ensure that they use public funds entrusted to them in a responsible and lawful manner. Officers should always strive to ensure value for money to the local community and to avoid legal challenge to the Council.

12.2 To support officers in this, the Council has developed financial rules and procedures, and information is also set out in the Finance Procedure Rules set out in this Constitution.

13 HOSPITALITY AND GIFTS

13.1 A potential source of conflict between officers' private and public interests is the offer of gifts, hospitality or benefits in kind to officers in connection with their official duties. At all times an employee must consider whether the gift or offer of hospitality would lead a member of the public to question whether their dealing with a matter may be prejudiced by a gift.

Gifts

13.2 An employee should refuse any personal gift offered to him or her, or to any family member, by any person or organisation who has dealings with the Council. There is a limited number of exceptions to this, as set out in paragraph 13.6 below. Any offer of such a gift should be reported to their Assistant Director. An employee should show tact and courtesy when refusing a gift, including explaining why they are unable to accept.

13.3 If the gift is delivered to an employee's place of work there may be a problem returning it, in which case it should be reported to the appropriate Chief Officer immediately using the Employees' Code of Conduct form. The gift should not be used unless specific authorisation is received.

13.4 Particular issues can be encountered by officers in a "caring" role or delivering a direct personal service. For example, it is not unusual for people receiving support at home from paid staff or their relatives to wish to express their thanks and gratitude to care staff by offering gifts, money or even by making an employee a beneficiary in their Will. It is essential that officers avoid any suggestion of improper motives or conduct. The general principle must be that gifts or money should be politely and tactfully refused with an appropriate explanation. If it is not possible to return a gift, the details of the gift and the reason why it is not returned must be reported immediately to the manager who will give further guidance. The gift must not be utilised unless explicit authorisation is received.

13.5 If an employee becomes aware that they have been made a beneficiary in an individual's will, they must immediately report this to their manager. The manager will then visit the individual to ensure that the bequest represents the genuine wishes of the individual and has not been improperly influenced by the employee. Following this, the manager will notify the Chief Officer who will determine the appropriate course of action. In some cases an employee may be unaware that they are a beneficiary until after the death of the client. As soon as an employee is made aware of such a bequest they must notify their Chief Officer who will determine the appropriate course of action.

13.6 The following are exceptions, and do not need to be declared to the Chief Officer (however, if there is any cause for concern, an employee is responsible for discussing the matter with their line manager):

13.6.1 A modest gift of a promotional nature given to a wide range of people, such as calendars, diaries, pens and other such articles which are common in the office and can be considered to form part of the general mailings of a company.

13.6.2 A modest gift where refusal would cause needless offence and the giver is not seeking a business decision, but it is merely an expression of thanks for service e.g. box of chocolates or a standard bottle of wine.

13.7 An employee must not on any occasion accept the offer of money.

Hospitality

13.8 The guiding principle is that it is important not to create an appearance of improper influence which can then undermine public confidence. In general terms, it will often be more acceptable to join in hospitality offered to a group than to accept something on an individual basis.

13.9 Hospitality is sometimes offered and accepted by officers where it is reasonable in all the circumstances, and there is a legitimate requirement to attend. Approval by an appropriate manager is required. Caution is needed where the host is seeking to do business with the Council or to obtain a decision from it. It is important to avoid any suggestion of improper influence.

13.10 Care must be taken when considering attending exhibitions, seminars or visiting manufacturers, etc. Such visits can be linked to a major sporting events, shows, concerts etc. and can be an attempt to legitimise offers of hospitality in the guise of business activities.

13.11 When a particular person or body has a matter currently in issue with the Council, e.g. an arbitration arising from a contract or ongoing planning application, then clearly common sense dictates that offers of hospitality be refused even if in normal times they would be regarded as acceptable.

13.12 All offers of hospitality should be reported to the Chief Officer concerned or, if the offer is made to a Chief Officer or Deputy Chief Officer, to the Chief Executive on Employees' Code of Conduct form.

13.13 The following checklist of questions may help to determine if an offer of hospitality or gift should be accepted or tactfully rejected.

13.13.1 Is the donor or event significant in the community or in your Council's area?

13.13.2 Is there an expectation that a Council representative attends because of their role?

13.13.3 Will the event be attended by others of a similar standing in the community or in other communities?

13.13.4 What is the motivation behind the invitation?

13.13.5 Would acceptance of the invitation be, in any way, inappropriate or place an employee under pressure in relation to any current or future issue?

13.13.6 Could the decision to attend be justified to the Council, press and public?

13.13.7 What is the hospitality or the nature of the gift and is it reasonable and appropriate in all of the circumstances to accept?

13.13.8 What are the concerns about accepting the hospitality?

14 SPONSORSHIP – GIVING AND RECEIVING

14.1 If an organisation wants to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic rules about accepting gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

14.2 If the Council sponsors an event or service, you or anyone connected with you may not benefit from the sponsorship. Similarly, if the council gives financial support in the community, please ensure that impartial advice is given and that you have no conflict of interest.

Part 4 – Section 3 – Councillor/Officer Protocol

1 INTRODUCTION AND PRINCIPLES

1.1 The purpose of this Protocol is to guide Members and Officers of the Council 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 Given the variety and complexity of such relations, the Protocol does not seek to be prescriptive and it may not cover all situations. It is hoped, however, that the general approach set out in this Protocol will serve as a guide in dealing with other issues that may not be specifically covered.

1.3 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity of local government by demanding very high standards of personal conduct.

1.4 Mutual respect between Members and Officers is essential to good local government. It is important in all dealings between Members 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 Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.

1.5 The relationship has to function without compromising the ultimate responsibilities of Officers to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that employees can legitimately provide to Members. This Protocol seeks to set a framework that assists the working relationships between Members and Officers.

2 ROLE OF MEMBERS AND OFFICERS

Members

2.1 The roles of Members and Officers are different, but complementary. Both Members and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members 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 Members 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 (including Locality Boards) .

2.2 There are a number of crucial roles for Members. Four, in particular, can be summarised as follows:

2.2.1 to provide strong leadership for communities and to contribute to policy and budget decisions of the full Council, suggest policy improvements and scrutinise the Cabinet's policy proposals and their implementation;

2.2.2 to monitor and review the Council's performance in implementing approved policy and in delivering services and projects;

2.2.3 to represent their constituents, promoting and communicating the interests of the electorate within the Council decision making processes and dealing with their day to day problems and concerns as they arise;

2.2.4 to represent the Council externally on joint committees, and on key partner and other outside bodies.

2.3 Members should not get involved in the day to day operational management of services. Equally, Officers should not get involved in politics.

Officers

2.4 Officers serve the whole Council. Officers support and advise the Council, and the constituent parts of its decision-making machinery; implement Council decisions and may themselves take decisions formally delegated to them through the approved Scheme of Delegation. All Officers are required to be politically neutral, and for senior Officers this is enforced through the political restrictions of the Local Government and Housing Act 1989. This position is also enshrined in the Council's Officers' Code of Conduct which forms part of the Council's Constitution.

2.5 Within this context, it is important to recognise the differing roles of certain Officers:

2.5.1 The Chief Executive and Corporate Directors form the Corporate Management Team, which provides a formal interface between Members and Officers, and which has a leading role in relation to policy co-ordination and performance management.

2.5.2 Assistant Directors and other Chief Officers are directly responsible for the day to day delivery of services within the Council's established policy and decision-making framework.

2.5.3 Officers within services themselves are primarily accountable to their Directors and when assisting Members should always do so within the parameters of whatever authority they have been given by their Director.

2.6 In particular, it should be recognised that Members do not, as elected or co-opted members, have any special immunity from civil or criminal wrongs that they may commit against fellow Members, Officers or members of the public. Members must ensure that they do not, therefore, for example, bully, harass, slander or libel another person. During public meetings of the Council, the Cabinet and Committees, statements made by Members may attract "legal privilege" which may be a defence to an action for defamation. Unlike Parliament and the Courts, local authorities only benefit from "qualified", rather than "absolute", privilege. As such there are conditions that must be met before qualified privilege will attach to a statement (including that Members should generally believe that statements they make are true and they should be made without malice).

2.7 Any member of the public (including Officers) can complain to the Council's Monitoring Officer about a Member's alleged breach of the Council's Members' Code of Conduct and / or bring private, civil action against a Member.

Members' Expectations

2.8 Members can expect from Officers:

2.8.1 A commitment to the Council as a whole, and not to any political group.

2.8.2 A working partnership based on an understanding of and support for respective roles, workloads and pressures.

2.8.3 Reasonable and timely response to enquiries and complaints.

2.8.4 Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers.

2.8.5 Regular, up to date information on matters that can reasonably be considered appropriate and relevant to Members' needs, having regard to any individual responsibilities that they have and positions that they hold.

2.8.6 Awareness of and sensitivity to the political environment.

2.8.7 Respect, dignity and courtesy and not acting in a discriminatory way through behaviour or speech.

2.8.8 Relevant training and development in order to carry out their role effectively.

2.8.9 Integrity, mutual support and appropriate confidentiality.

2.8.10 That Officers will not use their relationship with Members to advance their personal interests or to influence decisions improperly.

2.8.11 That Officers will at all times comply with the relevant Code of Conduct.

2.8.12 Support for the role of Members as the local representatives of the Council, within the parameters of support approved by the Council.

2.8.13 That Officers will promote equality of opportunity in all Council matters.

2.8.14 That Chief Officers keep Members informed both about the major issues concerning the Council and, more specifically ,about issues and events affecting their ward.

Officers' Expectations

2.9 Officers can expect from Members:

2.9.1 A working partnership based on an understanding of and support for respective roles, workloads and pressures.

2.9.2 Political leadership and direction.

2.9.3 Respect, dignity and courtesy and not acting in a discriminatory way through behaviour or speech.

2.9.4 Integrity, mutual support and appropriate confidentiality.

2.9.5 Not to be subject to bullying or harassment or to be put under undue pressure. Members should have regard to the seniority of Officers in determining what reasonable requests are, having regard to the relationship between Members and Officers, particularly at junior levels.

2.9.6 That Members will not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly.

2.9.7 That Members will at all times comply with the Members' Code of Conduct.

2.9.8 That Members will promote equality of opportunity in all Council matters.

Limitations on Behaviour

2.10 The distinct roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exhaustive list:

2.10.1 Close personal, as opposed to working, relationships between Members and Officers can confuse these separate roles and detrimentally affect the proper discharge of the Council's functions, not least by creating the perception in others that a particular Member or Officer may be securing advantageous treatment.

2.10.2 The need to maintain the separate roles means that there are limits to the matters on which Members may seek the advice of Officers, both in relation to personal matters and party-political issues.

2.10.3 Relationships with a particular individual or party groups should not be such as to create public suspicion that an Officer favours that Member or group above others. The issue of Officer attendance and advice to political groups is specifically covered at paragraphs 3.1 to 3.4 of this Protocol.

3 OFFICER ADVICE TO GROUPS OF MEMBERS

3.1 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example, the Council's monthly Notice of Forthcoming Key Decisions will identify the Key Decisions that the Cabinet will be considering. Individual Members and/or groups of Members 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 Directors, or otherwise with the approval of the Chief Executive.

3.2 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

3.2.1 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.

3.2.2 Similarly, where Officers provide information and advice to a group of Members meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to 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 Members, unless specifically asked to do so by a member of the group to whom the duty of confidentiality is owed.

3.4 Any particular cases of difficulty or uncertainty in this area of Officer advice to groups of Members should be raised with the Chief Executive or, in their absence, the Council's Monitoring Officer, who will discuss them with the relevant Group Leader(s).

4 OFFICER / MEMBER 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 Members.

4.2 Whilst Cabinet Members will routinely be consulted as part of the process of drawing up agenda items for a forthcoming meeting, it must be recognised that in some situations an Officer will consider it their duty to submit a report on a particular matter. In these circumstances, an Officer will always be fully responsible for the contents of any report submitted in their name. Similarly, a Member will also be fully responsible for that part of any report submitted in their name. Any issues arising between a Member and an Officer in this area should be referred to the Chief Executive for their resolution. Where individual Members wish to place an item on a Cabinet agenda, they should notify the Chief Executive in accordance with **Part 3** of the Constitution.

4.3 It must be remembered that Officers within a Service are accountable to their Director and ultimately to the Chief Executive, and that whilst Officers should always seek to assist any Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director. Officers should also refer to **Part 3** (Responsibility for Functions) and Part 4, Section 2 (Officers' Code of Conduct) in the Council's Constitution for clarification about the bounds of their responsibility.

5 UNDUE PRESSURE

5.1 A Member should not apply undue pressure on an Officer to do anything which they are 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 Member to make a decision in their favour, nor raise personal matters relating to their job, nor make claims or allegations about other Officers, except in accordance with any agreed Council procedure or in accordance with law. Members who receive any such approach from an Officer should advise the Chief Executive immediately.

6 GRIEVANCES OR COMPLAINTS

Procedure for Officers

6.1 From time to time the relationship between Members and Officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Member, Officers will have recourse to the Grievance Procedure where the matter concerns their employment, or to the Council's Monitoring Officer as appropriate in the circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Chief Executive who, having advised the Leader of the Council and the appropriate group leader, will decide on the course of action to be taken.

Procedure for Members

6.2 In the event that a Member is dissatisfied with the conduct, behaviour or performance of an Officer, they should not raise the matter in public or before the press, as Officers have no means of responding to the same in public. The matter should be raised with the appropriate Corporate Director. Where the Officer concerned is a Director, the matter should be raised with the Chief Executive. Where the Officer concerned is the Chief Executive, the matter should be raised with the Monitoring Officer. If the matter cannot be resolved informally, it may be necessary to invoke the Council's disciplinary procedure.

7 MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

7.1 Subject to the Access to Information Procedure Rules, Members are free to approach the appropriate Service to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should be directed to the Corporate Director, Assistant Director or other nominated representative. If Members wish to visit Officers, they should contact the Corporate Director or Assistant Director to make arrangements whenever possible.

7.2 With respect to the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law, and are subject to the Access to Information Procedure Rules.

7.3 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.

7.4 The information sought by a Member should be provided in a timely manner. It should only be provided by the respective Directorate as long as it is within the limits of the Directorate's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.

7.5 It is important for Chief Officers to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the areas that they represent. It is expected that Members will be kept informed about proposals that affect their ward and should also be invited to attend Council initiated events within their ward.

7.6 If a Member asks for specific information relating to the work of a particular Department, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chair concerned should be advised about the information provided.

7.7 Any Member may apply in confidence to the Chief Executive or appropriate Chief Officer for procedural advice or information to address a constituency issue.

7.8 The Code of Conduct provides that a Member must not disclose information given to the Member in confidence by anyone, or information which the Member believes, or ought reasonably to be aware, is of a confidential nature except where:

7.8.1 the Member has the consent of a person authorised to give it;

7.8.2 the Member is required by law to do so;

7.8.3 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

7.8.4 the disclosure is reasonable and in the public interest and made in good faith and in accordance with the law.

7.9 In order to safeguard against possible breaches of the Data Protection Legislation (which applies to all information of a personal nature) a member should always seek advice from the Chief Executive or Monitoring Officer before disclosing confidential information. Generally personal information cannot be released without the consent of the person to whom it relates. Improper disclosure of confidential information can put the member and the Council at legal and financial risk.

8 ATTENDANCE OF OFFICERS AND MEMBERS AT OVERVIEW AND SCRUTINY COMMITTEES

8.1 The Local Government Act 2000 empowers an Overview and Scrutiny Committee to require Cabinet Members and Officers to attend meetings of the committee and answer questions. It is the statutory duty of Members and Officers to comply with such requests. This statutory position is reflected in the Overview and Scrutiny Procedure Rules and, in general, should only need to be exercised in relation to senior Officers, namely Corporate Directors, Assistant Directors, third tier or other appropriate senior Officers.

8.2 It is important for the reputation of the Council that Overview and Scrutiny Committees use this power in a responsible and constructive manner which will assist the Committee in its work.

8.3 The Overview and Scrutiny Procedure Rules contain requirements relating to the giving of proper notice to the Member or Officer concerned. It is important that care is taken to identify the relevant Officer who is best equipped to help the committee in its work. That will not necessarily be the Chief Officer. Where there is any doubt the Chairman of the Overview and Scrutiny Committee concerned should consult with the relevant Chief Officer to identify the appropriate Officer.

8.4 Overview and Scrutiny Committees must always treat a Member or Officer appearing before it with respect and courtesy. The Member or Officer is there to help the Committee with its work and a positive and constructive approach should be taken by all parties. Committees should in particular refrain from any personal criticism. Chairs of Overview and Scrutiny Committees have a particular responsibility in setting the tone of the meeting to ensure this protocol is followed.

8.5 Overview and Scrutiny Committees should always bear in mind that when Officers appear to answer questions their evidence should, so far as possible, be confined to questions of fact and explanation relating to policies and decisions.

8.6 Officers may explain: what the policies are; the justification and objectives of those policies as the Cabinet sees them; the extent to which those objectives may have been met; and how administrative factors may have affected both the choice of policy measures and the manner of their implementation.

8.7 Officers may be asked to explain and justify advice they have given to Cabinet Members prior to decisions being taken and they may also be asked to explain and justify decisions they themselves have taken under delegated powers.

8.8 Officers should not be drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by Officers should always be consistent with the requirement to be politically impartial.

9 SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

9.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, email, internet, photocopying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

10 CORRESPONDENCE

Official letters entering into formal commitments on behalf of the Council should be sent in the name of the appropriate employee, rather than over the name of a Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member. It may be appropriate in some circumstances for a letter to be sent in the name of a member, for example in response to a letter of complaint sent direct to that member. But this should be the exception rather than the norm and it should only be done following consultation with the Chief Executive or appropriate Corporate Director.

11 MEDIA

11.1 Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views, as appropriate to their role, while employees provide factual information. If a Member has any queries regarding liaison with the media, they should contact the appropriate officer concerned or the Press Office.

11.2 Members are reminded that they must not use Council resources to publish any material that (in whole or in part) appears to be designed to affect public support for a political party.

12 WARD MEMBERS

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers or other topics being discussed with a Cabinet Member should be discussed with relevant Ward Members. Officers should seek the views of the appropriate Cabinet Member(s) as to with whom and when this might be done.

Cabinet Briefings

13 Cabinet members meet occasionally with Officers to discuss agendas and items of business to be considered at Cabinet meetings. These meetings are Informal meetings which are outside formal procedures for decision making as set out in the Councils Constitution.

14. CONCLUSION

It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Officers, we can provide one of the cornerstones of a successful Local Authority and thereby enhance the delivery of high value quality services to the people within the Council's area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Officers.

Part 4 – Section 4 – Planning Code of Conduct for Councillors

MODEL COUNCIL

COUNCILLORS' PLANNING CODE or PROTOCOL

Background

The Members' Planning Code of Good Practice was originally prepared in response to a series of successful court challenges concerning local planning authorities and the members' conduct or conflicts of interests. It replaced what was a number of individual and sometimes haphazard approaches in individual councils at the time. The drafting of the Model Code was subject to consultation and comment from a number of local authorities through the machinery of LLG as well as with the Local Government Ombudsman and from firms of solicitors or counsel. LLG then worked with the Local Government Association to publish the Code as part of a suite of guidance.

The Model Planning Code and Protocol was first published in 2003, was refreshed in 2007. Following the Localism Act 2011's introduction of the new law on members' conduct, the clarification in the law on bias and predetermination in that Act and in the courts[1] and commentary from the Committee on Standards in Public Life in better defining the Nolan Principles, it was reviewed and updated in 2014.

In 2017, the UK Supreme Court stated that the Code and Protocol "*offers sound practical advice*"[2].

The Model Council Planning Code and Protocol has thus now become a central plank of the guidance used by local authorities to give their members and others advice and to direct the business of the planning decisions to ensure fairness and legality. Many councils have incorporated it into their constitutional documents and a number have turned its provisions into standing orders to provide binding rules of procedure. The ability to do this was confirmed by the Court of Appeal in 2023[3].

As we approach ten years since that last update, we have looked again at the Code and Protocol for use by local authorities. In doing this we would wish to thank Bevan Brittan and in particular Philip McCourt, together with Sharon Bridglalsingh, Director of Law and Governance at Milton Keynes City Council.

This refresh will help in having clarified some of the points concerning consistency and reasoning in decision making and underscores the potential impact of social media interactions upon proceedings.

The successful operation of the planning system relies on mutual trust and understanding of Member and officer roles. It also relies on the important legal principle that a decision-maker must not only ask themselves the right question, but to obtain the relevant information to enable them to answer it correctly and to be able and willing to understand it and then take it properly into account when making their decision. All of this requires Members and their officers ensuring that they act in a way which that is fair and impartial and is clearly seen to be so.

In reproducing the Model Council Planning Code and Protocol in 2023, we are seeking to endorse and ensure that those principles continue to be upheld.

LLG
January 2024

Introduction

The aim of this code of good practice: 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.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest**. Your role as a Member of the Planning Authority is** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who had been elected to provide and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

When the Code of Good Practice applies: this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.

1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Authority's Code of Conduct first, which must be always be complied with. This is both the rules on disclosable pecuniary interests (and other interests if included in your authority's code) and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the Members' Code of Conduct for the purposes of planning and development control. If you do not abide by this Members' Planning Code, you may put:
    - the Council at risk of proceedings on the legality or maladministration of the related decision; and
    - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.
- **Do** be aware that, like the Authority's Code of Conduct, this Planning Code is a reflection and summary of the law on decision making and not a direct replication of it. If in doubt, seek the advice of your monitoring officer or their staff advising at the meeting.

2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest as required by your members Code of Conduct.

- **Do take into account when approaching a decision that** the Principle of integrity is defined, by the Committee on Standards in Public Life in 2013, in terms that "*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***". It is therefore advisable that you:
    - **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.

- **Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that the Members' Code of Conduct may place additional limitations on you in representing that proposal
- **Do** notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
  - you should send the notification no later than submission of that application where you can;
  - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
  - you must not get involved in the processing of the application; and
  - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

3. Fettering Discretion in the Planning Process

(natural justice, predisposition and predetermination)

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by approaching the decision with a closed mind. Fettering your discretion in this way and taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of bias, pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- **Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the law. Your prior observations, apparent favouring or objections in respect of a particular outcome will not on their own normally suffice to make a decision unlawful and have it quashed, but you must never come to make a decision with a closed mind.
- **Do** keep at the front of your mind that, when you come to make the decision, you
  - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice and the arguments from all sides;
  - are not required to cast aside views on planning policy you held when seeking election or when otherwise acting as a Member, in giving fair consideration to points raised;
  - are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
  - are to come to a decision after giving what you feel is the right weight to those material considerations.
- **Do** be aware that you can be biased where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district**/**borough and county councillor), provided:
  - the proposal does not substantially effect the well being or financial standing of the consultee body;
  - you make it clear to the consultee body that:
    - your views are expressed on the limited information before you only;
    - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and

- you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.

- **Do** explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. (*Use the disclosure form provided for disclosing interests.)*

- **Do** take the opportunity to exercise your separate speaking rights as a Ward**/**Local Member (*where this is granted by the authority's standing orders or by the consent from the Chair and Committee***)** where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:
  - advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
  - remove yourself from the seating area for members of the Committee for the duration of that item; and
  - ensure that your actions are recorded

  in accordance with the Authority's committee procedures.

4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.

- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the [*relevant Development Control Manager*] to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

- **Do** otherwise:
  - follow the rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report to the [*relevant Development Control Manager*] any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file [a profoma has been supplied to you for this purpose].

In addition in respect of presentations by applicants/developers:

- **Don't** attend a planning presentation without requesting an officer to be present.

- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.

- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.

- **Do** be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.

5. Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.

- **Do** remember that your overriding duty is to the whole community not just to the people in your [ward][division][particular interest or area] and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- **Do** copy or pass on any lobbying correspondence you receive to the [*relevant Development Control Manager*] at the earliest opportunity.
- **Do** promptly refer to the [*relevant Development Control Manager*] any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:
  - listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind);
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion of others in your role as a [Ward][Division] Member.

6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will be seen to have fettered your discretion on the grounds of bias.
- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but you should normally disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- **Do** be aware of the power of social media posts or re-posting and be careful to not to give the impression that you will definitively vote in a certain way or act with a closed mind if you intend to participate in the decision making on behalf of the authority.
- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

7. Site Visits/Inspections

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
  - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or

- there are significant policy or precedent implications and specific site factors need to be carefully addressed.

- **Do** ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the [Ward][Division] Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views.
- **Don't** enter a site which is subject to a proposal other than as part of an official site visit**,** even in response to an invitation, as this may give the impression of bias unless:
  - you feel it is essential for you to visit the site other than through attending the official site visit,
  - you have first spoken to the [*relevant Development Control Manager*] about your intention to do so and why (which will be recorded on the file) and
  - you can ensure you will comply with these good practice rules on site visits.

8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally, in writing or by social media) other than through the scheme for public speaking or through the Chair, as this may give the appearance of bias.
- **Don't** participate in social media or exchanges by texting as a member of the committee during the committee's proceedings as this may give the impression of undue external influence and may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Development Control Manager, which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and repeated in the report to the Committee.

- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter. (Where a matter is deferred and its consideration recommences at a subsequent meeting, only Members who were present at the previous meeting will be able to vote. If this renders the Committee inquorate then the item will have to be considered afresh and this would include public speaking rights being triggered again).
- **Do** have recorded the reasons for Committee's decision to defer any proposal [and that this is in accordance with the Council's protocol on deferrals].
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you 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 will help to take advice from officers when and where necessary to do this and, if there are no indications allowing you to do this in advance of the meeting, it may be helpful to request a short adjournment for these purposes). Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

11. Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- **Do** participate in the annual review of a sample of planning decisions to ensure that Members` judgements have been based on proper planning considerations.

LLG January 2024

Westmorland & Furness Council

Part 5
Elected Members' Allowances Scheme 2025/26

PART 5 CONTENTS PAGE

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5	**Councillors Allowance Scheme**	The list of Councillors' Allowances for 2025/26	244

Westmorland and Furness Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following Scheme.

1. This Scheme may be cited as the Westmorland and Furness Council Members' Allowances Scheme and shall have effect for the period set out in ***Schedule 1 to this scheme, until amended or revoked.***

2. In this Scheme, 'Councillor' means an Elected Member of Westmorland and Furness Council.

3. In this Scheme "Co-opted Member means a person who is not a Councillor but who is a co-opted member of a Committee of the Council.

4. **Independent Remuneration Panel (IRP)**

- Westmorland and Furness Council is required by the Local Authorities (Members Allowances) (England) Regulations 2003 to establish and maintain an Independent Remuneration Panel (IRP), which will have the function of providing the Council with advice on its Members Allowances Scheme and the amounts to be paid.

- The IRP will make recommendations about the level of Basic Allowance for all Councillors, a recommendation about the Special Responsibilities for which a Special Responsibility Allowance should be paid and the levels of those allowances.

- The IRP will make recommendations about Childcare and Dependent Carer's Allowance and the level of this allowance.

- The IRP will make recommendations about the rates of Travel & Subsistence Allowances which Members can claim when undertaking Council business.

- The IRP will make recommendations in respect of allowances to be paid to Co-opted members of Committees and the levels of those allowances.

Any decision of the Council to amend, revoke or replace their scheme of allowances, and to make a new annual scheme must be taken having regard to the recommendations of the IRP.

- The IRP will also make recommendations in respect of Parental Leave.

The function of agreeing and adopting a Members Allowances Scheme is the function of the full Council for Westmorland and Furness Council.

5. **Basic Allowance (BA)**

A Basic Allowance will be paid to each Councillor ***at the annual rate specified in Schedule 1 to this Scheme.*** The allowance will be paid in monthly instalments.

6. **Special Responsibility Allowances (SRA)**

A Special Responsibility Allowance (SRA) will be paid ***at the annual rate specified in Schedule 1*** to those Councillors who hold the special responsibilities in relation to Westmorland and Furness Council which are specified in that Schedule. The allowance will be paid in monthly instalments.

No Councillor will be entitled to be paid more than one SRA at any one time, and in the event that a Councillor undertakes more than one Special Responsibility at a time then the entitlement will be to the SRA of that Councillor's choice.

An SRA ceases to be payable as at the day immediately prior to the Annual Council meeting.

Chairs' who are re-elected at the Annual Council meeting will receive an SRA payable effective from that date.

Where a Chair is not elected at the Annual Council meeting and the Committee with the responsibility to elect the Chair does not sit until sometime after the Annual Council meeting, any SRA will not be payable to the outgoing Chair after the day before the Annual Council meeting and will only be payable from the date the committee sits and the new Chair is elected or re-elected.

7. **Telephone Provision / Miscellaneous expenses**

No separate provision will be paid in respect of line rental, broadband, telephone calls or other miscellaneous expenses associated with being a Councillor except as provided within this scheme. All such costs are to be met from the annual amount of Basic Allowance identified in ***Schedule 1.***

8. **Dependant Carer's Allowances**

A Dependant Carer's Allowance will be payable based upon a reimbursement of actual receipted costs of ***up to the rate per hour specified in Schedule 1*** to any Councillor who incurs expenditure in respect of the care of their children, or

dependent relatives, whilst undertaking any of the qualifying approved duties specified in ***Schedule 1.***

This rate of allowance may be exceeded by agreement with the Director of Resources where professional care is required for children, or dependent relatives, with medical or other special needs. Receipted claims must be submitted to the Democratic Services Manager.

8. **Subsistence Allowances**

Subsistence Expenses will be reimbursed in accordance with ***the scales detailed in Schedule 1,*** in respect of the qualifying duties specified in that Schedule by reference to the period of absence from home or place of work as appropriate

9 **. Travel Arrangements**

Councillors should travel by Public Transport where reasonably possible. Where Members travel by rail, they will be entitled to travel at Standard Class rates, and tickets for the journey can be organised through the Council's officers.

Where a Councillor undertakes a journey by car then reimbursement will not exceed ***the mileage rates specified in Schedule 1.***

Travel by Air will only be authorised and paid on the conditions and rates set out ***in Schedule 1.***

10. **Travel Abroad**

When travelling beyond the United Kingdom, the Councillor in consultation with the organising department and the Democratic Services Manager should ensure as far as practical that the arrangements are made for accommodation to be provided on a fully inclusive basis as a direct charge to the Council. Where this is not practical, the Democratic Services Manager will determine an appropriate scale of allowance having regard to the nature of the event, the location, and any published scales relating to Senior Civil Servants undertaking duties abroad in the location concerned.

11. **Parental Leave**

Councillors will be eligible to take maternity, paternity, shared parental leave and adoption leave in accordance with the guidance set out in ***Schedule I.***

12**. Part Year Entitlements**

(i) The provisions of this paragraph regulate the entitlement of a Councillor to a Basic or Special Responsibility Allowance, where, in the course of a year, this Scheme is amended, or a Councillor becomes or ceases to be a Councillor, or accepts or relinquishes a Special Responsibility in respect of which a Special Responsibility Allowance is payable under this Scheme.

(ii) If an amendment to this Scheme changes the amount to which a Councillor is entitled by way of a Basic Allowance or a Special Responsibility Allowance, or if a Councillor accepts or relinquishes a Special Responsibility Allowance,
then the entitlement to the allowance will be in proportion to the number of days entitlement to each allowance relative to the number of days in that year.

(iii) If an amendment to this Scheme changes the amount payable by way of a Dependant Carer's or Subsistence Allowance or to the rates of travel entitlement, the entitlement to such an allowance or payment will be to the amount under the scheme as it has effect when the duty was carried out.

(iv) Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a Basic or Special Responsibility Allowance will be in proportion to the number of days of their term of office, relative to the number of days in that year.

13. **Renunciation**

A Councillor may by notice, in writing given to the Democratic Services Manager forego any part of their entitlement to an allowance under this Scheme.

14. **Annual Review of Allowances**

The Local Authorities (Members' Allowances) (England) Regulations 2003 enables Councils to make provision for the annual adjustment of allowances by reference to an index, which may apply for a period of no longer than four years.

Accordingly, the allowances payable under this scheme will be adjusted annually from 1st April 2024 and thereafter 1st April 2025, 1st April 2026 and 1st April 2027 in line with the Pay Award (if any) for staff on salary scale 44 of the Westmorland and Furness Pay Scale, and any percentage increase applied automatically.

In addition the Independent Remuneration Panel may undertake a review of the scheme to assess whether any further recommendations are required in relation to any of the allowances paid under the scheme.

15. **Claims and Payments**

(a) A claim for Dependant Carer's or Subsistence Allowance or reimbursement of travel expenses under this Scheme will be made in writing within **two months** of the date of the meeting in respect of which the entitlement arises.

(b) A claim for Dependant Carer's or Subsistence Allowance or reimbursement of any travel expenses, will be on the form provided by the Democratic Services Manager and will include a statement by the Councillor making
the claim that he or she is not entitled to receive remuneration, reimbursement or any allowance claimable from another body in respect of the matter to which the claim relates, otherwise than under this Scheme.

(c) Where a payment of the amount specified in this Scheme in respect of a Basic Allowance or a Special Responsibility Allowance would result in a Councillor receiving more than the amount to which he or she is entitled, the payment will be restricted to such an amount as will ensure that no more is paid than the amount to which he or she is entitled. In the event

of a Councillor no longer holding a Special Responsibility, or ceasing to be a Councillor, the amount of any allowance which has been overpaid will be recovered.

16. Pensions

On the 1 April 2014 the Local Government Pension Scheme was closed to Councillors.

Councillors are therefore recommended to make their own Pension Provision as appropriate to their own individual circumstances and should note that the Council is unable to make any contribution to any such arrangements.

17. Revocation

The previous Westmorland and Furness Members Allowance Scheme for the Shadow Authority which took effect from May 2022 is revoked with effect from 1 April 2023, without prejudice to Councillors entitled to payment under that scheme.

SCHEDULE 1

1. Basic and Special Responsibility Allowances (SRA)

The following are specified as the **Basic and Special Responsibility Allowances** which shall be payable at the **Annual** rates specified below ***for the period commencing April 2024 until revoked or amended: -***

BASIC ALLOWANCE (BA)	**Role**	**£ Value**	
	All Councillors (65 Members)	**£13,837.50**	
SPECIAL RESPONSIBILITY ALLOWANCES (SRA)	**Role**	**Multiplier x BA**	**£ Value**
Band 1	**Council Leader**	**X 2**	**27,675**
Band 2	**Deputy Leader**	**X 1.2**	**16,605**
Band 3	**Cabinet Member (8 members)**	**X 1**	**13,837.50**
Band 4	**Chair of Council*** **Chairs of:** **Strategic Planning Committee**	**X 0.5**	**6,918.75**

	Eden Local Area Planning Committee **Barrow-in-Furness Local Area Planning Committee** **South Lakeland Local Area Planning Committee** **Licensing / Regulatory Committee** **Corporate OSC** **Children & Young People & Families OSC** **Health & Adults OSC** **Communities & Environment OSC** **Joint OSC Hosted Services with Cumberland (NB Chair rotates)** **Pensions Committee**		
Band 5	**Chairs of:** **Eden Locality Board** **Furness Locality Board** **South Lakeland Locality Board**	**X 0.4**	**5,535**

	Standards & Governance Committee **Staffing Committee** **Lake Administration Committee** **Leader of Opposition Group**		
Band 6	**No nominations**	**X 0.3**	**4,151.25**
Band 7	**Deputy Chair of Council*** **Leader of other groups with minimum of 5 members**	**X 0.2**	**2,767.50**

Co-opted Members	**Independent Chair of Audit Committee**	**X 0.5**	**6,918.75**
	Independent Remuneration Panel*	**Chair** **Panel Members**	**615** **512.50**
	Independent Persons*		**1000**

* These allowances are payable under other legislation

2. Dependent Carer's Allowances

A Dependent Carer's Allowance will be payable based upon a reimbursement of actual receipted costs of up to the rate £11.44 per hour (alignment with the National Living Wage) and will be paid for care of dependents whether children, elderly person's or people with disabilities, to those Councillors representing the Council on approved duties (see paragraph 8). The maximum period of the entitlement will be the duration of the approved duty and reasonable travelling time. The allowance will not be payable where the care is provided by a member of the claimant's own household or if a member already receives a carers' allowance. This rate of allowance may be exceeded by agreement with the Director of Resources where professional care is required for children, or dependent relatives, with medical or other special needs. Receipted claims must be submitted to the Democratic Services Manager

3. Travel

Councillors should travel by Public Transport where reasonably possible.

Rail Travel – the amount of the ordinary Standard Class fare at the cheapest rate available for the journey wherever possible.

Taxi Cab - in cases of urgency or where no other form of public transport is reasonably available the amount of the actual fare and any reasonable gratuity paid - in any other cases the amount of the fare for travel by appropriate public transport.

Private Motor Vehicle – Travel allowances are payable to all members who necessarily incur expenditure in the performance of an approved duty. The mileage rates are the prevailing HM Revenue and Customs limits for tax allowance purposes. Currently these are as follows:

Cars and Vans:	First 10,000 miles: 45p per mile
	Over 10,000 miles: 25p per mile
Motorcycles:	First 10,000 miles: 24p per mile
	Over 10,000 miles: 24p per mile
Bicycles:	First 10,000 miles: 20p per mile
	Over 10,000 miles: 20 p per mile

Councillors who submit mileage claims for reimbursement must request and submit VAT receipts for the purchase of fuel to support their claim. This procedure is necessary to allow the Council to recover VAT from HM Revenue & Customs (HMRC).

Air - the rate for travel by air shall not exceed the rate applicable to travel by appropriate alternative means of transport together with an allowance equivalent to the amount of any saving in subsistence allowance consequent on travel by air. Where the saving in time is so substantial as to justify payment of the fare for travel by air, the amount paid shall not exceed:

a) The ordinary fare or any available cheap fare for travel by regular air service, or
b) Where no such service is available or in the case of urgency, the fare actually paid by the member

Other Costs - The rates detailed above may be increased by not more than the amount of any necessary expenditure incurred on tolls, ferries or parking fees including overnight garaging, however receipts must be submitted with claims.

4. Subsistence

Where expenditure on subsistence is necessarily incurred in the performance of an 'approved duty' outside of the Westmorland and Furness Council area an allowance **not exceeding the following maximum rates** may be claimed upon the production of receipts, as set out below:

(a) Breakfast allowance (more than 4 hours away from normal place of residence before 11 a.m.) **£7.00**

(b) Lunch allowance (more than 4 hours away from normal place of residence including the period between 12 noon and 2 p.m.) **£9.00**

(c) Evening meal allowance (more than 4 hours away from the normal place of residence ending after 6 p.m.) **£15.00**

(d) In the case of an **absence overnight** from the usual place of residence, Accommodation should be pre-arranged through Democratic Services.

However, where a member **makes their own accommodation arrangements** reimbursement of hotel bills will be limited to the following maximum rates.

Non-London Hotel - **£130.00 plus VAT**

London Hotels - **£150.00 plus VAT**

NB. For the purposes of this, London means the City of London and the London Boroughs of Camden, Greenwich, Hackney, Hammersmith and Fulham, Islington, Kensington and Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth and the City of Westminster.

5. Conference Allowance

There is no Conference Allowance payable.

6. Submission of Claims

Claims under this scheme for the payment of travel and subsistence and carers' allowances should be submitted electronically on a monthly basis on a form prescribed for the purpose to the Democratic Services Manager by the fourteenth day of the following month.

7. Membership of Other Local Authorities

Where a Councillor is also a member of another local authority, that Councillor may not receive allowances from more than one local authority in respect of the same duties.

8. Qualifying Approved Duties

For payment of Travel and Subsistence and Dependent Carer's

Allowance:

- Attendance at any meeting of the Council, Cabinet, Committee, Sub- Committee, Panel or Working Group
- Attendance as the Council's appointed representative on any outside body including public bodies, charity, voluntary body or other organisation formed for a public purpose (and not for the benefit of the Councillor).
- Attendance by the Chair, Vice Chair or Cabinet Member for the purposes of a briefing prior to a meeting of any meeting of the Council, Cabinet, Committee, Sub-Committee, Panel or Working Group and/or events convened by a Chief Officer to deal with Council business.
- Attendance at Member Learning and Development Events and approved Training Courses.
- Attendance at Parish Council meetings where the Councillor is representing Westmorland and Furness Council (but not where the Councillor is already a member of the Parish Council).
- Attendance at Governor meetings where the Councillor is representing Westmorland and Furness Council
- Attendance at Tenants or Housing Forums where the Councillor is representing Westmorland and Furness Council
- The inspection of children's homes and inspections and site visits to other Council owned premises
- Formal site visits by members of the Strategic Planning Committee or Local

Area Planning Committees.

- Court Hearings or Public Inquiries where the Councillor is attending on behalf of the Council.
- Meetings of associations of local authorities (including committees, special interest groups or working groups) of which the Council is a member.
- Civic Duties undertaken by the Chair or Vice Chair of the Council.
- Attendance at Ward Surgeries

9. **Parental Leave**

Councillors are eligible to take maternity, paternity, shared parental leave and adoption leave in accordance with the guidance set out below:

Maternity Leave

(a) Councillors giving birth are entitled to up to 6 months maternity leave from the due date, with the option to extend up to 52 weeks by agreement if required.

Paternity Leave

(b) Councillors shall be entitled to take a minimum of 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren).

(c) A Councillor who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from Council.

(d) Where both parents are Councillors leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks.

Adoption Leave

(e) A Councillor who adopts a child through an approved adoption agency will be entitled to take up to six months adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement if required.

Leave Arrangements

(f) Any Councillor who takes maternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six month period.

(g) Any Councillor intending to take maternity, paternity, shared parental or adoption leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return.

(h) Any Councillor taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

Basic Allowance

(i) All Members will continue to receive their Basic Allowance in full whilst on maternity, paternity or adoption leave.

3. Special Responsibility Allowances

(j) Councillors entitled to a Special Responsibility Allowance will continue to receive their allowance in full in the case of maternity, paternity, shared parental or adoption leave.

(k) Where a replacement is appointed to cover the period of absence that person will receive an SRA on a pro rata basis for the period of the temporary appointment.

(l) The payment of Special Responsibility Allowances, whether to the primary SRA holder or a replacement, during a period of maternity, paternity, shared parental or adoption leave will continue for a period of six months, or until the date of the next Annual Meeting of the Council, or until the date when the member taking leave is up for election (whichever is soonest). At such a point, the position will be reviewed, and will be subject to a possible extension for a further six month period.

(m) Should a Councillor appointed to replace the member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one Special Responsibility Allowances will apply.

(n) Unless the Councillor taking leave is removed from their post at an Annual General Meeting of the Council whilst on leave, or unless the Party to which they belong loses control of the Council during their leave period, they will return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began.

Resigning from Office and Elections

(o) If a Councillor decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.

(p) If an election is held during the Councillors maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA, if appropriate, will cease from the Monday after the election date when they would technically leave office.

Westmorland & Furness Council

Part 6
Glossary

PART 6 CONTENTS PAGE

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6	**Glossary**	The Glossary explains some of the key terms used throughout this document.	246

Agenda	This sets out the business to be conducted at Council meetings and must be published in advance of the meeting in accordance with legislation and the Access to Information Rules.
Annual Governance Statement	The Annual Governance Statement is a statutory document which explains the processes and procedures in place to enable the Council to carry out its functions effectively. The statement is produced following an annual review of the Council's governance arrangements and the effectiveness of its system of internal control. The statement includes an action plan to address any significant governance issues identified. The Annual Governance Statement is prepared in accordance with the **CIPFA** Framework. The Annual Governance Statement must be published by the Council by 31 July each year. It is usually published alongside the Council's Statement of Accounts.
Audit Committee	The Audit Committee considers the Council's governance arrangements and ensures that the financial affairs of the Council are properly conducted.
Background Papers	Papers which relate to agenda items and meetings and which must be referred to in the reports with the agenda for inspection by the public, in accordance with the Access to information Rules
Best Value	The 'Best Value Duty' is a legal duty on the Council, in accordance with section 3 of the Local Government Act 1999. This general duty of Best Value requires the Council 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. When reviewing service provision the Council should consider overall value, including economic, environmental and social value.
Budget	All the financial resources allocated to different services and projects. With regards to the Council's budget, that means the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and setting virement limits, as a whole.
Budget and Policy Framework	The Council is responsible for setting the Budget and Policy Framework. The Budget and Policy Framework sets out the Council's key policies and agreed budget for each year. All decisions must be taken in accordance with these agreed documents. Only Council can change the Budget and Policy Framework
Budget Council Meeting	The meeting of the Council that takes place each year in order to calculate the budget requirement and set the council tax.
Cabinet	The Cabinet committee comprising the Leader of the Council and up to 9 individual Cabinet Members selected by the Leader.
Cabinet Member	A member of the Cabinet with specific responsibilities (a 'portfolio') delegated by the Leader of the Council. Also known as 'portfolio holders' and 'Cabinet Members'

Call-In	A mechanism, which allows the Overview and Scrutiny Committee to examine, and challenge, a Cabinet decision before it is implemented.
Chair of the Council	The Councillor elected each year to act as Chair of the Council.
Chief Executive	The most senior officer, with overall responsibility for the management of the Council, also known as the Head of Paid Service.
Chief Finance Officer	The officer responsible for the administration of the financial affairs of the Council (under section 151 of the Local Government Act 1972). Also known as the Section 151 Officer. The Director of Resources is the designated Chief Finance Officer.
Chief Officer	The most senior Council staff who are responsible for managing each of the Council's departments, as defined in section 2 of the Local Government and Housing Act 1989. It means the Council's Chief Finance Officer, Monitoring Officer as well as any officers whom report directly to the Head of Paid Service (but does not include secretarial, clerical or support staff). The Council's Corporate Directors are chief officers
CIPFA	The Chartered Institute of Public Finance and Accountancy.
Code of Conduct for Councillors	The Code which sets out the standards of behaviour expected of Councillors and co-opted members.
Code of Conduct for Officers	The Code which sets out the standards of behaviour expected of officers.
Code of Corporate Governance	The Code setting out the Council's governance framework. The Code of Corporate Governance is prepared in accordance with the **CIPFA** Framework.
Committee	A Committee authorised to make executive or non- executive decisions.
Confidential Information	Information either given to the Council by the Government on teems which forbid its public disclosure or which cannot be publicly disclosed by Court Order.
Constituency Coterminous	A constituency having some of the same boundaries as another constituency
Constitution	The document setting out how the Council operates, how decisions are made and all the procedures that have to be followed.
Contract Standing Orders/Procedure Rules	The rules which set out how the Council buys goods and services and enters into contracts.
Co-optee/Co-opted	A person appointed to serve on a Committee/Sub-Committee in an advisory capacity. They are not Councillors and are not entitled to vote.
Corporate Directors	• The Chief Executive • Director of Resources • Director of Enabler Services • Director of Thriving Places • Director of Thriving Communities • Director of Adult Social Care • Director of Children's Services

Corporate Management Team	The meeting of Chief Officers also known as CMT
Council	The meeting of all Councillors of the Council
Council companies	A company in which the Council is a shareholder
Councillor	A person elected by voters to be a member of the Council. Also known as a 'member' of the Council.
Councillors' Planning Code of Conduct	The Code which sets out the standards of behaviour expected of Councillors on Planning Committee
Council and Cabinet Forward Plan	A list of all major decisions to be made by Council and key decisions to be made by Cabinet.
Data Protection Legislation	means all privacy laws applicable to personal data including the Data Protection Act 2018 and regulations made under it and the General Data Protection Regulation (Regulation (EU) 2016/679); together with all codes of practice and other statutory guidance issued by the Information Commissioner's Office
Deputy Chief Officers	The second most senior Council staff, whom report directly to the Council's **Chief Officers**
Designated Officers	For the purposes of officer delegated powers within this Constitution, the term "Designated Officer" shall include the following officers: • The Chief Executive • Assistant Chief Executive • Director of Resources • Director of Enabler Services • Director of Thriving Places • Director of Thriving Communities • Director of Adult Social Care • Director of Children's Services • Chief Legal & Monitoring Officer
Development Plan	Development plan and development plan documents include the local plan, neighbourhood plans, and other information contained in section 38 Planning and Compulsory Purchase Act 2004
	The collective term for the Leader of the Council, individual Cabinet Members, the Cabinet or a committee of the Cabinet
Executive Functions/ Executive Decisions	The majority of the Council's functions, which are the responsibility of the Leader of the Council or if he or she decides by the Cabinet, individual Cabinet Members a committee of the Cabinet, a joint committee, another local authority, or officers. 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.
Exempt Information	Information falling into one of the categories set out in the law which usually cannot be publicly disclosed – see the Access to Information Procedure Rules at Part 3.
Finance Procedure Rules	The Rules which sets out how the Council's financial procedures operate to safeguard public money

Five Clear Days	The period during which copies of the agenda and reports of a meeting must normally be available for inspection under the Access to Information Procedure Rules. The period of five working days not counting; • the day of the meeting • the day on which the meeting is called • days which fall at the weekends, public holidays or bank holidays.
Group Leaders	People appointed by a political group to act as the leader of that group of Councillors.
Head of Paid Service	The most senior officer, with overall responsibility for the management and operation of the Council; also known as the Chief Executive.
Imprest Account	The imprest system is a form of financial accounting system. The most common imprest system is the petty cash system. The base characteristic of an imprest system is that a fixed amount is reserved, which after a certain period of time or when circumstances require, because money was spent, it will be replenished.
Independent Persons Panel	The Panel established by the Council to review the recommendations of the Panel of the Staffing Committee into Statutory Officer discipline and compile a recommendation of its own for consideration by the Council.
Investigation Disciplinary Committee	The Committee as referred to in the JNC Conditions of Service for Chief Executives and Chief Officers. This role is carried out by the Staffing Committee, to consider disciplinary issues in relation the Council's Chief Executive (Head of Paid Service), Chief Finance Officer and Monitoring Officer.
Joint Committee	A committee appointed jointly by the Council and one or more other Council's to jointly oversee carrying out functions.
Key Decision	An executive decision which is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates or is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Council. For these purposes, savings and expenditure are "significant" if they are equal to or greater than £500,000. For clarification, no treasury management decision shall constitute a Key Decision.
Leader	The person elected as the Leader of the majority party and Leader of the Council. They are responsible for carrying out the executive functions of the Council.
Licensing Committee	The committee that makes carries out the Council's responsibilities under the Licensing Act 2003 Act and the Gambling Act 2005.
Local Choice Functions	These are functions specified in Regulations issued under the Local Government Act 2000 Act and which the Council can choose to be either executive or non-executive functions.
Local Government Application Note	The guidance note on the requirements and practice of internal audit in the local government environment, in line with Public Sector Internal Audit Standards.

Monitoring Officer	The officer responsible for updating the Constitution, advising upon decision-making, reporting on illegality and maladministration in Council business, dealing with the conduct and behaviour of Councillors as well as having a range of delegated functions principally set out in Part 2 Section 6 of this Constitution (Officer Scheme of Delegation).
Non-Executive Functions	These are functions specified in Regulations issued under the Local Government Act 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.
Officer	A person employed by the Council to carry out the work of the authority. Officers cannot be Councillors The way in which the officers of the Council can make decisions and which decisions they have the power to make, as set out at Part 2 Section G of the Constitution.
Overview & Scrutiny	Providing support and advice to the Cabinet by contributing to the review and development of policy; holding the Cabinet to account by questioning, challenging and monitoring their performance. This function is currently undertaken by the Overview and Scrutiny Committees.
Political Balance	Political balance means: (i) That not all seats on the committee, sub-committee or relevant joint authority or joint committee ("the body") are allocated to the same political group; (ii) That the majority of seats on the body are allocated to a political group holding the majority of seats on the Council; (iii) That, subject to (i) and (ii) above, the total number of seats held by each political group on all committees of the Council taken as a whole is proportionate to that group's membership of the authority; and (iv) That, subject to (i) and (iii) above, the number of seats held by each political group on individual bodies is proportionate to that group's membership of the Council.
Political Group	Two or more Councillors who have joined together and asked to be recognised as a political group.
Politically Restricted Post	Employees in politically restricted posts are prevented from having any active political role either in or outside of work
Portfolios/Portfolio Holder/Responsibility	A portfolio describes the specific responsibilities delegated by the Leader of the Council to a Cabinet Member, for which they are the portfolio holder.
Private Meeting	A private meeting' means a meeting or part of a meeting of the Cabinet or a Cabinet Committee during which the public are excluded in accordance with Procedure Rule 42 (Exclusion of Access by the Public to Meetings).

Procedure Rules	The rules governing the processes of the Council's decision-making
Proper Officer	An officer designated as being responsible for a specific function.
Protocols	Codes of Practice, which set out how, for example, various elements of the Council, are expected to interact with each other.
Public Sector Internal Audit Standards	The UK Public Sector Internal Audit Standards (PSIAS) have been developed to apply across the whole of the public sector in all sectors of government. The PSIAS are based on standards issued by the Institute of Internal Auditors (IIA), with additional requirements and interpretations that make them directly applicable to the UK public sector. The PSIAS are developed jointly by the relevant internal audit standard setters (RIASS) for central government, local government, devolved government administration bodies and the National Health Service (NHS). The PSIAS set out requirements which apply generally to all UK public sector engagements, but do not include any sector requirements or guidance for specific parts of government.
Quorum	The minimum number of people who have to be present before a meeting can take place.
Section 151 Officer	The officer responsible for the administration of the financial affairs of the Council (under section 151 of the Local Government Act 1972). Also known as the Chief Finance Officer
Standards & Governance Committee	The Committee responsible for promoting and maintaining high standards of conduct by Councillors and considering written allegations that a Councillor has failed to comply with their Code of Conduct.
Statement of Accounts	The Statement of Accounts inform interested parties of the Council's finances and includes such information as the Council's assets and liabilities at the end of the financial year, the cost of the services provided by the Council and the way in which these services were financed. These must be published by the Council by 31 July each year.
Statutory Officers	These are officers that the authority must have in place, some of which may be combined and some of which cannot, but they all have additional personal responsibilities. In this council they are the Head of Paid Service, the Monitoring Officer and the Director Of Resources (Chief Finance Officer/s151 Officer), Director of Adults Services, the Director of Children's Services and the Director of Public Health.
Sub-Committee	A sub-committee authorised to make executive decisions and non-executive decisions.
Treasury Management	Treasury management functions are those functions carried out in accordance with the approved Treasury Management Strategy. The Chief Finance Officer is responsible for the Treasury Management Strategy.
Virement	Moving funds from one area of expenditure to another.
Whip	The member of a political group appointed to ensure discipline amongst other members of the same political group. A whip's role included ensuring members of the party vote according to the party platform. In certain regulatory functions such as Planning and

Licensing, Councillors are required to act independently and are not subject to the group/party whip. Special training is arranged for Councillors for this.

Westmorland & Furness Council

Part 7
List of associated documents

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1 MONITORING OFFICER PROTOCOL

MONITORING OFFICER PROTOCOL

This protocol has been produced according to the model, introduced following the recommendation of the former District Auditor Service, that guidelines be produced for the benefit of Members and Senior Officers on the role of the Monitoring Officer.

1 Introduction

This Protocol explains the role and functions of the Council's Monitoring Officer and the arrangements for ensuring this role is effectively carried out. It is based on the understanding that the ability of the Monitoring Officer to undertake this role effectively depends on excellent working relations with colleagues and Members and on the flow of information and access to debate particularly at early stages.

2 Functions

The Monitoring Officer is a statutory appointment pursuant to Section 5 of the Local Government and Housing Act 1989. The chief responsibilities can be summarised as:-

2.1 a duty to report to the Council or executive in any case where the Monitoring Officer is of the opinion that any proposal or decision has given rise to or is likely to or would give rise to

2.1.1 a contravention of any enactment or rule of law; or

2.1.2 maladministration

and these matters are referred to in this Protocol as "reportable incidents";

2.2 a range of functions relating to Members' conduct relating to the statutory duty to promote and maintain high standards of conduct under the Localism Act 2011; and

2.3 as proper officer and for specific functions under the Council's Constitution.

The Monitoring Officer may themselves choose to nominate an officer to act as Deputy Monitoring Officer to undertake the role should the Monitoring Officer be absent or ill.

3 Working Arrangements

3.1 In order to ensure the effective undertaking of these duties, the Monitoring Officer will:-

3.1.1 have regular meetings with each of the Head of Paid Service and Chief Finance (S.151) Officer in order to review current and likely future issues with legal, constitutional or ethical implications.

3.1.2 maintain good liaison and working relations with the Head of Internal Audit and the external audit service.

3.1.3 ensure that the Council is kept up to date on new legislation and changes in the law which are relevant to the carrying out of the Council's activities. This will generally take the form of reports to Members and briefing notes to Chief Officers but where appropriate will involve training sessions for relevant Members and officers.

These activities will be carried out in consultation and conjunction with relevant Chief Officers.

3.2 In addition, Chief Officers will ensure that:-

3.2.1 The Monitoring Officer or their Senior Staff are consulted at an early stage on new policy proposals and on matters which have potentially significant legal implications. Where there is any doubt, the Chief Officer should always consult.

3.2.2 All draft reports to the Council and Committees should as a matter of routine be cleared with the Monitoring Officer or their senior staff.

3.2.3 The Monitoring Officer is informed of all emerging issues of concern of a legal, ethical or constitutional nature. Similarly, Members should ensure that the Monitoring Officer is routinely informed and consulted in respect of new policy proposals. The Monitoring Officer will always seek to resolve any potential illegality by identifying alternative and legitimate means of achieving the objective of the purpose. (See also para. 3.5(a)).

3.3 Also, in cases where external lawyers are acting for the Council, it will be necessary for the Monitoring Officer to appoint a client officer from within Legal Services and to agree with the relevant Chief Officer arrangements for ensuring that vires and constitutional issues are satisfactorily addressed.

3.4 These working arrangements will mean that:

3.4.1 The Monitoring Officer will seek to resolve potential reportable incidents (as defined in para 2(a)) by avoiding the illegality, etc., or by identifying alternative and legitimate means of achieving the objective of the proposal. Accordingly, and given that Council officers and Members are encouraged to consult the Monitoring Officer in respect of any proposal, the Monitoring Officer will only need to make a public report on the matter if the proposal were to be a potential reportable incident and the officer or Member subsequently took any action to progress that proposal despite being advised to the contrary by the Monitoring Officer.

3.4.2 Where the Monitoring Officer receives a complaint of a potential reportable incident, he/she must in appropriate cases seek to resolve the matter amicably, by securing that any illegality or failure of process is rectified. However, it is recognised that the Monitoring Officer may decide that the matter is of such importance that a statutory report is the only appropriate response.

3.4.3 In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer will be entitled to add his/her written advice to the report of any other Council officer.

3.4.4 Notwithstanding the above, the Monitoring Officer retains the right to make a statutory report where, after consultation with the Head of Paid Service and the S.151 Officer, when the Monitoring Officer is of the opinion that such is necessary in order to respond properly to a reportable incident.

3.5 In pursuance of his or her duties, and to assist in effective and efficient undertaking of these working arrangements, the Monitoring Officer will have the right:-

3.5.1 To receive advance notice of meetings, whether formal or informal between Chief Officers and Members of the Council or Committee Chairs where any procedural, vires or other constitutional issues are likely to arise, together with the right to attend such meetings.

3.5.2 To receive advance notice of meetings of the Senior Leadership Team and the agenda and reports together with the right to attend and speak.

3.5.3 To see all documents and information held by or on behalf of the Council, including documents and information held by any Council officer or Member. However, this right does not extend to documents and information held by or on behalf of any political party represented on the Council.

3.5.4 To attend any meetings of officers or Members (or both), whether or not such meetings include any other persons. However, this right does not extend to any meetings held by or on behalf of any political party represented on the Council.

3.5.5 To require any Council officer or Member, or any contractor to provide an explanation of any matter under investigation. (f) To report to the Council, and its Committees, including a right to present a written report and to attend and advise orally.

3.5.6 To have access to the Chief Executive (Head of the Paid Service) and to the S.151 Officer.

3.5.7 After consultation with the Chief Executive and the S.151 Officer, to notify the Police, the Council's Auditors and other regulatory agencies of concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions.

3.5.8 To obtain, at the Council's expense, legal advice, either internally or from an independent external solicitor, barrister or forensic consultant, on any matter which it is believed may be a reportable incident.

4 Conflicts

Where the Monitoring Officer is in receipt of a complaint or is aware of a potential reportable event relating to a matter upon which he/she has previously advised the Council, he/she must consult the Head of the Paid Service who may then either refer the matter to the Deputy Monitoring Officer for investigation and report back to the Head of the Paid Service or request a neighbouring authority to make their Monitoring Officer available to the Council to investigate the matter and report to the Head of the Paid Service and/or the Council as appropriate.

5 Insurance and indemnity arrangements

The S.151 Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council, and the proper discharge of the Monitoring Officer role.

6 Sanctions for breach of the Council’s Codes of Conduct and this Protocol

Complaints relating to any breach of the Council’s Code of Conduct for Members must be dealt with in accordance with the arrangements adopted by Council. Complaints relating to any breach of this Protocol by a Member may be referred to the relevant leader and/ or whip of the political party group and as a breach of the members Code of Conduct to the Standards and Governance Committee. Complaints relating to any breach of this Protocol by an officer may be referred for disciplinary action.

7 Procedure for dealing with complaints regarding councillors and parish and town councillors and co-opted members

7.1 There is a formal procedure for dealing with complaints that a Councillor or a town or parish councillor or a co-opted member has failed to comply with the Members’ Code of Conduct.

7.2 The Monitoring Officer reserves the right to deal with any issues arising in the course of business that concerns the conduct or alleged conduct of a Member in the absence of a complaint if the Monitoring Officer deems it reasonable and appropriate to do so.

Westmorland & Furness Council

Part 8
Management Structure

PART 8

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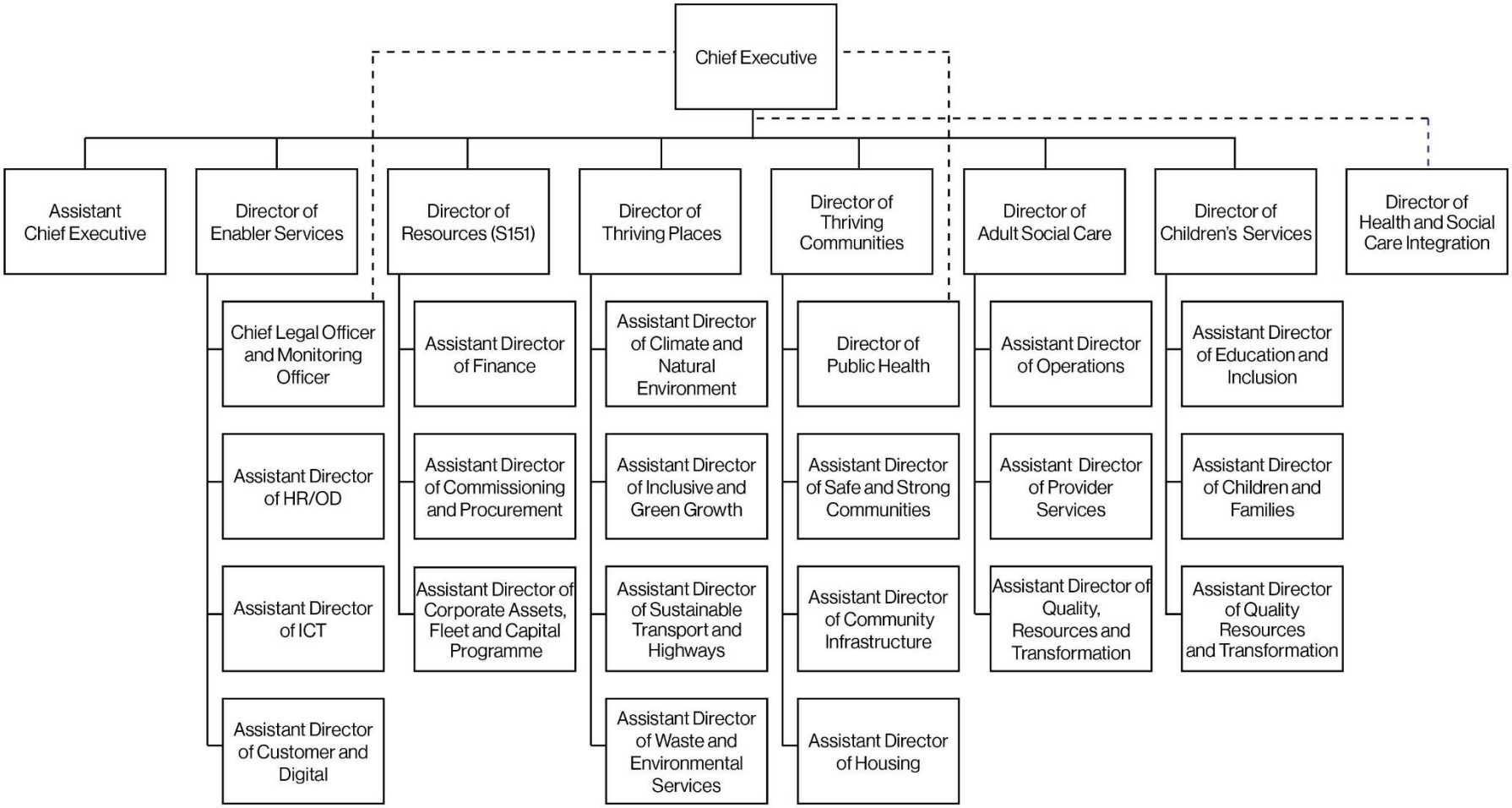
Westmorland & Furness Council



Updated March 2023

PART 9 - Public Participation Scheme

Introduction

1.1. The Council is committed to the people of Westmorland and Furness having a say on its services and decisions.

1.2. There are many ways you can get involved such as attending community meetings and public events and responding to public consultations. There are some Council meetings that you can also attend and participate by asking a question, or making representations, or presenting a petition.

1.3. The Public Participation Scheme explains how you can do this.

2. The Public Participation Scheme

2.1. The Public Participation Scheme applies to the following meetings:

- Council;
- Cabinet;
- Locality Boards;
- Licensing Committee
- Licensing Regulatory Committee

2.2. For more information about when and where Council meetings take place visit the Council Meetings page on the Council's website – see link below Committee structure | Westmorland and Furness Council (moderngov.co.uk)

2.3. Council meetings are public meetings and if you participate at a meeting, your name and a summary of your participation will be included in the minutes of the meeting. You may be filmed under the law permitting filming at meetings of the Council.

Arrangements for Meetings listed in 2.1

3.1. The public participation arrangements are the same for each of the meetings listed in 2.1 above.

3.2. If you wish to participate in the meetings listed in 2.1 you can do so in one of the following ways:

a. Asking a Question; or
b. Making a Statement; or
c. Presenting a Petition.

3.3. You can ask a question, make a statement or present a petition on any matter for which the Council has responsibility.

3.4. You can attend the meeting to ask your question, make your statement or present your petition, but you are not required to attend. If you do not attend, the meeting will consider your question, statement or petition and you will receive a written response after the meeting.

3.5. Once you have submitted your question, petition or statement, the Monitoring Officer will decide which body to refer it to. If your question, petition or statement is outside the remit of the meetings you will receive a written response from the Council.

3.6. The time set aside for public participation is normally limited to 30 minutes per meeting. This period may be extended in exceptional circumstances at the discretion of the Chair.

3.7. The Council treats all participants in meetings with respect and expects the same standards of conduct from all participants in its meetings.

Submitting questions, statements, and petitions

3.8. Questions, statements, and petitions can be submitted: • by email to democratic.services@westmorlandandfurness.gov.uk or • by post to The Monitoring Officer at South Lakeland House, Kendal LA9 4DH (mark your envelope 'Public Participation')

3.9. Your question or statement must be received in writing (including email) by the Council at least 3 clear working days before the day of the meeting (not including the day of the meeting). So, for example, if the meeting is on Tuesday requests must be received by 11.59 pm on the previous Wednesday. For Petitions, please see below.

3.10. The Council's Monitoring Officer will reject questions, statements or petitions which are not submitted in writing, within the time limit. You will be notified if your question, statement, or petition is rejected for these reasons and may resubmit, complying with the requirements in the scheme, provided your submission is not otherwise excluded (see Exclusions).

Attending a meeting

3.11. If you want to attend the meeting to which you have submitted your question, statement or petition, please let us know you when you submit it.

3.12. You will be contacted before the meeting by a Council officer to confirm your attendance and inform you of the date of the meeting, venue and what time to attend.

3.13. On the day of the meeting, we ask that you arrive in plenty of time. Public participation takes place early on in the meeting.

3.14. If you cannot attend the meeting, you may ask someone else to attend on your behalf. Please let us know us in advance of the meeting who you have asked to attend on your behalf.

3.15. When it is your turn to speak you will have a few minutes to introduce yourself and then ask your question, make your statement, or present your petition. You may be asked follow-up questions by members attending the meeting. Normally 5 minutes is allowed for each speaker.

3.16. You will then receive a response from the Chair of the meeting.

3.17. If you asked a question, you may ask one supplementary question to clarify any particular point relating to your question. You will normally be allowed up to 2 minutes for your follow up question. You will not be able to ask follow-up questions or make further representations if you have made a statement or presented a petition.

Petitions - Special considerations

3.18 When you submit a petition, the following information should be submitted:

• What the petition is about
• Which meeting you want to present the petition to
• What action you (the petitioners) want Westmorland and Furness Council to take
• The name, address and signature of any person supporting the petition (which can be the person's home, work or study address)
• Your name and contact details (the person submitting the petition)

3.19. All Petitions must be submitted in writing. If you submit a petition in writing your petition will be acknowledged within 2 working days, with confirmation of what the Council will do with the petition and when you can expect a response. The Council's response will depend on what the petition is about and how many people have signed it.

3.20. Before you submit a petition the Council recommends that you contact your local elected member to see if the Council is already acting on your concerns and to ensure that the Council is the most appropriate body to receive your petition. All Petitions must be received by the Council in accordance with 3.9 above and within 9 clear working days of the meeting. If your Petition has 1000 (or more) signatures from signatories whose primary residence, work or study address is within the boundary of Westmorland and Furness Council, it will be scheduled for debate at the Council meeting. If this is the case we will communicate the date of the meeting to you. Note: where the petition concerns the administration of the Cumbria Local Government Pension Scheme then signatories may in addition be Pension Scheme members.
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Exclusions

3.21. There are some circumstances where the Council will not accept questions, statements or petitions under the Public Participation Scheme. The Monitoring Officer may reject a question, statement or petition if it is:
a. about any individual (including an individual member of the Cumbria Local Government Pension Scheme) or a member of Council staff;
b. about matters which are covered by legal or other proceedings; c. about a party political matter;
d. about confidential or exempt information (as defined by statute);
e. about a matter where there is already a right of appeal or a complaints process;
f. vexatious, frivolous, abusive or likely to be defamatory;
g. is not about a matter for which the Council has responsibility;
h. a statutory petition (such as one requesting a referendum on having an elected mayor)
i. the subject matter of the question, statement or petition is substantially the same as the subject matter of a question, statement or petition considered by a meeting of the full Council, or Cabinet or a local committee (or in the case of a petition which was not directed towards a meeting, has otherwise received a response) within the last 12 months.
The Monitoring Officer's decision is final.

Arrangements for the Strategic Planning Committee and Area Planning Committees and Licensing Sub Committees

Many Local Planning Authorities permit members of the public to address the Committee about a particular proposal prior to the consideration of the application. Procedures vary across the country but all are designed to provide as fair an opportunity as possible for a balance of views to be provided between those supporting and those opposing an application.

Members of the public are permitted to address the Planning Committee and the following protocols relate to the procedures adopted.

Protocols

- in accordance with the Council Procedure Rules, any person (including Councillors, Parish representatives, applicants, objectors and supporters) may seek to address the Planning Committee by making representations in relation to any matter which appears on the agenda for that meeting.
- any person who wishes to address the Committee should request to do so in writing to the Committee Services team no later than 0:01am (one minute past midnight) three working days before the date of the Planning Committee, providing a written summary of the issues they intend to raise (together with copies of any illustrative material). A person registering to speak is required to supply their name, address, contact phone number and the planning application or agenda item they wish to speak on
- Committee Services will acknowledge all requests to speak within two working days of receipt of that request. If your request is received outside of the Council's office hours, the date of receipt will be taken as the next working day. If you do not receive an acknowledgement either within this time frame or before the Planning Committee if sooner, please call Committee Services who will be pleased to help. Anyone who has registered to speak on a specific planning application or enforcement agenda item should try to arrive at least 15 minutes before the start of the meeting.

The following procedure will apply

- the Planning Officer will present the application outlining what the proposal is about and identifying the issues relevant to the application and concluding with a recommendation
- for the area committees public speakers will then address the committee. The public participation element will allow up to three objectors and three supporters to speak on a particular item. The objectors will speak first followed by the supporters and then the applicant/agent. Furthermore, each speaker will be allowed up to five minutes, therefore this will result up to a maximum of 15 minutes for objectors and 15 minutes for supporters, resulting a maximum public participation time limit of up to 30 minutes for each item. If a ward member or a parish / town councillor wishes to speak on an item this will be in addition to the three objectors/supporters
- for the strategic committee public speakers will address the committee. The public participation element will allow up to five objectors and five supporters to speak on a particular item. The objectors will speak first followed by the supporters and then the applicant/agent. Furthermore, each speaker will be allowed up to five minutes, therefore this will result up to a maximum of 25 minutes for objectors and 25 minutes for supporters, resulting a maximum public participation time limit of up to 50 minutes for each item. If a ward member or a parish / town councillor wishes to speak on an item this will be in addition to the three objectors/supporters
- if more than 3 (or 5 for the Strategic committee) people apply to speak either as a supporter or opponent, places will be allocated on a first come first served basis. In exceptional cases the Chair of the Committee will have discretion to decide the maximum number of speakers. (A larger group

should consider electing spokespersons) However other neighbour comments will be reported in the normal way in the officer's committee report. The Chairman may refuse an individual's application to speak if it becomes clear that they would be doubly represented at the meeting

- with respect to the content of the public presentations they should be limited to purely planning considerations and should not make statements of a personal or slanderous nature, be abusive or interrupt other speakers, or the Committee, during their debate. If a speaker fails to abide by this requirement, they will not be permitted to address the Committee any further and will be required to leave the Chamber
- Information on how to apply can be obtained by contacting the Planning Business Support Team by telephone on 0300 373 3300. Please refer to the Agenda for each meeting for the relevant Committee Services contact details
- if an application is deferred after an Objector/ Supporter has spoken they will not be allowed to speak again when the matter is referred back to Committee for a decision, unless any new information has been submitted. The objector/supporter would be limited to speak only in respect of the new information
- planning officers will be given the opportunity to respond to any of the public speaker's comments
- the opportunity will then be given for the officer to be questioned by the Committee
- if a member of the Committee has a question, that is materially relevant to the determination of the application, where the officer does not hold the information requested, but a person who has spoken on the application may do so. The Chair may use his/her discretion to ask the relevant speaker to provide the information requested if he or she is able to do so. , or allow a short recess to allow the officer to research the matter
- the Committee will then debate the proposals and come to a decision.

Images provided by an objector/supporter will not normally be allowed to be presented.

If, due to unforeseen circumstances, a speaker is unable to attend or address the Committee then they may appoint someone to speak on their behalf, subject to the approval of the Chairman of the Planning Committee and the relevant authority being provided to the representative

Please note: an agenda item will not be deferred if someone who has registered to speak fails to arrive in time for the item to be considered. Where a speaker is not present in the room when it is their time to speak they may lose their right to speak on the application.

Part 10

Protocol for Notifying Local Members of Key Issues

1. Introduction

1.1 Members carry out a number of different roles, but it is their role in their local community that is arguably the most important. Members are often the first point of contact, especially if local people, stakeholders and other community groups are concerned about an issue or have queries about services or plans for the area.

1.2 It is critical that Members are informed about all significant developments affecting their electoral ward before other groups and always before the Council makes public **announcements**.

1.3 The purpose of this Protocol for Notifying Local Members of Key Issues ('Protocol') is to help officers make sure that Members are kept properly informed about local issues. Local issues are issues which impact on a particular ward or only a small number of wards (usually no more than 3 wards). Responsibility for implementing the Protocol rests with Chief Officers and Assistant Directors, and the specific arrangements to do this are the responsibility of individual Directorates.

1.4 Existing arrangements already require local members to be consulted before Cabinet or a Locality Board takes a formal decision. However, many issues of great importance to local Members do not require formal decisions, are taken by officers under delegated powers as part of their management responsibilities or are initiated by residents/local groups. This protocol should be applied in these circumstances.

1.5 The principle of "no surprises" for Members underpins the Protocol. Officers must aim to avoid situations where a Member is contacted by a resident or by the press, for a comment/assistance on a Council issue affecting their electoral ward of which they were unaware. Wherever possible, Members should be the first to know of events and issues affecting their constituents.

1.6 Whilst much information is made available electronically through the Council's intranet and through members' briefing; officers must not rely on this as the primary method of informing a Member of a matter that specifically affects a Member's electoral ward. Contact must be made directly with the Member.

1.7 The following paragraphs describe more fully how the arrangements should work in practice.

2. The Local Member Role

2.1 Members have been elected to represent their electoral wards and have a detailed knowledge of the local area. Members will act on behalf of individual constituents on specific issues or may represent the Council on local bodies in their ward, such as school governing bodies. Members will monitor the quality and effectiveness of service provision and are an important communication link between the Council and local people.

2.2 The local press will often contact local Members for their views on local issues, particularly where the Council's or partners' proposals are likely to be controversial or have a major impact locally. The views of local Members are a key dimension of policy-making and it is important that their views are heard and taken into account by decision-makers, whether that be the Cabinet, Locality Boards, or officers.

2.3 Members need to be kept fully informed and briefed on significant issues affecting the locality so that there are "no surprises" at formal meetings and in members' dealings with constituents, partners and other stakeholders.

2.4 Members are also encouraged to inform the relevant officers of significant issues of which they become aware and which will have an impact on the Council and its services.

3. Definition of Significant Issues

3.1 A "significant issue" is deemed to be something that is likely to result in a Member being approached by the press or a constituent. It is not possible to cover everything in a list but the following are examples of the kinds of issues which are usually regarded as significant. This applies whether or not the matter will come before Members under the Council's formal decision making process.

(a) **Changes to services** provided or maintained by the Council (directly or by commission/in partnership) such as:

(i) Changes to opening hours/admission arrangements
(ii) Changes to the type of service provided
(iii) Introduction of or changes to fees and charges
(iv) Closures - partial, temporary or permanent
(v) Expansions of facilities
(vi) Planned or programmed highways works
(vii) Planned or programmed building/maintenance works
(viii) Changes to 'catchment' areas/service areas
(ix) Changes to rules on financial or professional assistance
(x) Communications with parish or town, councils
(xi) School closures or amalgamations

(b) Council **decisions** on:

(i) Planning applications
(ii) Traffic management
(iii) Trading standards
(iv) Housing
(v) Aspects of social care (subject to exclusions below)
(vi) Licencing matters
(vii) Bins, recycling and street cleaning
(viii) Local transport matters

. (c) **Sensitive** issues such as:

(i) Where a local campaign is developing
(ii) Where multiple letters on the same subject have been received
(iii) Where you are responding to an article or letter in the press or media
(iv) Where the local MPs has become involved
(v) Issues where there are concerns about the performance of a Council service, especially where externally assessed.

(d) **Corporate** issues such as:

(i) Formal representations on the part of the Council on significant issues, that are regional or national

(ii) Formal responses to consultations from government at regional or national levels or from quangos and other public bodies.

4. Cross Ward Involvement of Local Members

4.1 Most notifications will relate to a matter within a specific area and generally will only affect a single electoral ward. However, some proposals will be more broadly based and officers will exercise judgement in these cases as to which local members should be consulted or informed. The closure of a secondary school, for example, will clearly affect more than one electoral ward because of the wide catchment area of the school. Road closures, bus routes and library opening times are other examples where more than one electoral ward may be affected.

4.2 Consideration should also be given to whether a proposal which on the face of it would only affect a single electoral ward would actually have implications for a wider area.

5. Local Member involvement in official visits and formal events

5.1 Local Members should be involved in, or at least informed of, official visits or formal openings of premises or facilities in their electoral ward. Consideration should be given at the outset to whether local Members should be invited to events and, if not, officers should be in a position to explain the adopted course of action if asked by the local Member. Where the event or function involves the Chair or Vice-Chair of the Council, the Communications Team will advise on protocols.

6. Particular Requirements in relation to Agenda Despatch and Democratic Services' Role

6.1 Relying solely on formal agenda papers as the method for notification is not acceptable as this is unlikely to provide information sufficiently in advance of an issue being discussed. Local Members must be told about an issue much earlier so that they are able to deal with constituents' concerns, influence through appropriate channels, and advise constituents, for example on the Council's Public Participation Scheme.

6.2 The responsibility for notifying local Members rests with the relevant directorate before the formal processes are reached. Although earlier notification may have been given, Democratic Services will notify local Members when an agenda is despatched (sending them a copy of the report) based on the advice given by your directorate or service as to the areas affected. This will be the electoral wards listed under the "Implications" Section of reports.

7. Responsibility for Notifying Local Members

7.1 Identifying issues that affect local Members is the responsibility of the relevant directorate or service dealing with the matter. This refers not only to items coming before the Cabinet, a Locality Board, or other bodies; but also significant issues that arise outside the formal processes.

7.2 Each directorate may have its own arrangements in place about who is authorised to contact Members and at what stage in relation to specific proposals and issues. Some services may have an agreed notification procedure which follows the spirit of this Protocol but is designed for the service's particular

circumstances. Officers should only notify a local Member in accordance with this Protocol and any procedure or guidance issued by their service. If officers are unsure about notifying a local Member at an early stage on a particular matter, advice should be sought from their Senior Manager or Assistant Director / Director before approaching the Member.

7.3 Officers should consider carefully whether the Cabinet member with responsibility for the service should also be advised of a particular local proposal or issue as they too might be asked by the press or others to comment.

7.4 How contact is made with Members will depend to a large extent on the importance of the issues and the urgency. Usually it is better to email the Member so that Members have a clear description of the issue but in urgent cases Members can be contacted by telephone. Numbers are given on the Council's intranet.

7.5 Area Managers are often able to support the process of notifying local Members of issues, and as a point of focus for council services in each local area should also be kept informed of significant issues; however the lead should come from the directorate/ service to instigate notification and responsibility for notification does not lie with the relevant Area Manager(s).

8. Information and Advice About Local Members and Their Wards

8.1 Details of Members and electoral wards are available on the intranet. Where the information is not clear, the Democratic Services team can be contacted for advice.

9. Monitoring and Review of the Protocol

9.1 Where a Member believes that this Protocol is not being followed they should inform the Chief Legal and Monitoring Officer of their specific concerns. The matter will be registered and referred to the appropriate Chief Officer for investigation. The Chief Officer will advise the local Member and the Monitoring Officer of the outcome of the investigation and any action taken. This will be recorded to show that the matter has been resolved.

10. Data Protection

10.1 The present law on data protection allows personal data to be disclosed to Members, without having to obtain the consent of the data subject, where disclosure is necessary for the Member to carry out their official duties. Officers must carefully consider their obligations under the data protection legislation before disclosing personal data to Members. In particular:-

(a) they must only give the Member access to the personal data they need to carry out their duties;

(b) they must specify the purposes for which that information may be used or disclosed;

(c) where the Member is able to take a copy of the personal data away from the premises or is able to access the data remotely they should specify the steps necessary to keep the information secure.

If in doubt, officers should contact the Chief Legal and Monitoring Officer for further advice on disclosure of information to Members.

11. Confidentiality

11.1 Members are required by the Member Code of Conduct not to breach confidentiality. Therefore, the fact that an issue is confidential does not in itself prevent the sharing of it with the local Member, but the confidentiality must be made clear to the local Member.

11.2 **Exceptions:**

The following issues should not be shared with the local Member

(a) Where the issue is about the provision of a personal service from the Council to an individual or a dependent, unless the individual or person in receipt of the service has expressly asked for the involvement of the local Member and has agreed that correspondence can be shared, or where the issue is already public, such as in the press or media.

(b) Where it involves the personal circumstances of an officer.

(c) Where it involves politically sensitive corporate issues, such as communication with Members of Parliament, Government, Local Government Association on provisional or early draft proposals.

(d) Where it involves corporate issues of a sensitive nature such as commercially sensitive information relating to issues of procurement and contracts; or confidential legal advice

12. Monthly Members' Briefings

12.1 Where an issue is of interest to all Members of the Council, the monthly Members' Briefings can be used to draw attention to significant corporate issues or matters which affect all Members. Providing information through this route does not remove the requirement on directorates to notify local Members directly of issues which relate to their electoral ward.

Part 11
Protocol on Remote Licensing Hearings and changes to Westmorland and Furness Council Procedure

AMENDMENTS TO THE COUNCIL'S CONSTITUTION -

PROTOCOL ON REMOTE LICENSING HEARINGS

1. Time and Place of Meeting, Notice of the Summons to meetings

The proper officer will give the requisite notice to the public of the time of the Remote Licensing Hearing and the agenda. The 'place' at which the meeting is held may be at an Authority building or may be where the organiser of the meeting is located or may be an electronic or a digital or virtual location, a web address or a conference call telephone number; or could be a number of these combined. The meeting may also be held in a meeting room or Chamber with a proportion of the membership and any participating public additionally attending remotely. The place of the meeting will be clearly referenced on the Summons for the meeting. Members will be notified by email and the agenda and papers for the meeting will be available on the Council's website.

Amendments to Part 3 Section 1 - Council Procedure Rules, Rule 4 'Time and Place of Meetings' and Rule 5 'Notice of the Summons to Meetings' and Access to Information Procedure Rules (Part 3, Section 3)

(a) For the purposes of Remote Licensing Hearings, the term 'meeting' is not limited in meaning to a meeting of persons all of whom or any of whom are present in the same place, for which purposes any reference to:

(i) "place" is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers: and

(ii) "open to the public" includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person; and

(iii) If the Chair is made aware that the Remote Licensing Hearing is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chair shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. The Chair will endeavour to adjourn to a specific date.

(b) For the purposes of Remote Licensing Hearings, the terms "notice", "summons", "agenda", "report", "written record" and "background papers" when referred to as being a document that is:

(i) "open to inspection" shall include for these and all other purposes as being published on the website of the council; and

(ii) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

2. Attendance at the Meeting and Quorum

For a Remote Licensing Hearing to be quorate **three** Members are required to be in attendance at all times during the Remote Licensing Hearing (as set out in Part 2 – Section 5: Functions of Committees, 5 Licensing and Regulatory Committees, 5.11). Members in attendance at the meeting will be monitored throughout the meeting by the nominated Officer who will notify the Chair and Legal Adviser to the panel immediately if a Member is disconnected or drops out of the meeting. If connection is lost then the process set out above will be followed.

A Member is classed as attending the Remote Licensing Hearing at any time if all of the conditions below are satisfied; these conditions are that the member in remote attendance is able at that time;

(i) to hear, and where practicable see, and so be heard and, where practicable, be seen by, the other

members in attendance,

(ii) to hear, and where practiable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting, and

(iii) to be so heard and, where practicable, be seen by any other members of the public, attending a meeting which includes that person attending by remote access.

The Chair will normally confirm at the outset and at any reconvening of a Remote Licensing Hearing that they can see and hear all participating Members. Any Member participating remotely should also confirm at the outset and at any reconvening ofthe meeting that they can where practicable see and hear the proceedings and the other participants.

If technology fails for a wholly or partially remote public Licensing Hearing and the public meeting is no longer open to the public any decisions made could be challenged as unlawful.

A technological failure removing the ability for the public to access a public meeting by remote means renders the whole meeting incapable of proceeding (as described above).

In the event of any apparent failure of the video, telephone or conferencing connection of any member attending remotely, the Chair or the Legal Adviser (if the failure is that of the Chair's) should immediately determine if the meeting is still quorate:

(a) if it is, then the business of the meeting will continue; or

(b) if there is no quorum, then the meeting shall adjourn for a period specified by the Chair, expected to be no more than ten or fifteen minutes, to allow the connection to be re-established.

In the event of connection failure, the remote Member(s) will be deemed to have left the meeting at the point of failure and if the connection cannot be re-established to those Member(s) within a reasonable time period to be determined by the Chair, then the presumption will be that the meeting should continue to deal with the item/s subject to rule above regarding quorum.

If the connection is successfully re-established, then the remote Member(s) will be deemed to have returned at the point of re-establishment.

Amendments to Constitution
Part 3, Section 1 – Council Procedure Rules, Rule 7 'Quorum'

(a) A Member in remote attendance at a Remote Licensing Hearing is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:

(i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance.

(ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and

(iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

(b) A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in (a) above are not met. In such circumstance the Chair may, as they deem appropriate;

(i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in (a) above to be re-established; or

(ii) count the number of Members in attendance for the purposes of the quorum; and

(iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.

3. Meeting Procedures and Voting

A nominated Officer will manage the video, telephone or conferencing technology employed for remote access and attendance and to administer the public and Member interaction, engagement and connections on the instruction of the Chair.

The Authority will endeavour to put in place a solution that will enable Members participating in Remote Licensing Hearings remotely to indicate their wish to speak, replacing the physical practices or rules concerning raising one's hand or standing to be recognised or expressing a desire to speak.

The Chair, at the beginning of the Hearing, will explain the protocol for Member and public participation as well as the Procedure for the meeting.

The Chair will ask all Members to confirm their name, ward and attendance at the start of the Hearing and ask whether they can hear and are being heard by others in the meeting. At each opportunity in a Hearing for Members to ask questions, the Chair may ask each member in attendance in turn whether he or she has a question to ask. This is in order to facilitate active and orderly participation in the Hearing by all members. Members will be asked to adhere to etiquette guidance during remote hearings, which will be shared with Members prior to the meeting (e.g. microphones to be muted when not talking).

Unless a Recorded Vote is called, the method of voting will be that each Member must confirm that they have heard **without interruption** the entire proceedings and full discussion in relation to the item and members to state 'for', 'against', or 'abstain' to indicate their vote when their name is called.

While the minutes will record the decision of the meeting the names of the members for, against or abstaining will not be recorded unless Council Procedure Rules 16.7 or apply (Recorded Votes/Right to require individual vote to be recorded).

Amendment to Council Procedure Rule 16 – VOTING
For the purposes of Remote Licensing Hearings:

(i) Unless a recorded vote is demanded, [which may be confirmed by the requisite number of Members confirming the demand verbally when requested by the Chair,] the Chair will take the Vote by assent of the meeting or by roll call.

(ii) Each Member must confirm that they have heard without interruption the entire proceedings and full discussion in relation to the item and will be asked to state 'for', 'against', or 'abstain' to indicate their vote when their name is called.

4. Public Participation at Remote Licensing Hearings - Licensing Committee and Sub-Committee Hearing Procedure

The 'Public Participation at Licensing Sub-Committees' guidance within the Licensing Committee and Sub-Committee Hearings Procedure still applies save that in respect of Remote Licensing Hearings the Remote Licensing Hearings Protocol takes precedence in the event of any inconsistency.

Members of the public attending a meeting remotely must when they are speaking be able to be heard (where practicable be seen) by all other Members in attendance, and the remote participant must, in turn, be able to hear (and where practicable be seen) those other members participating and be so heard and, where practicable, be seen by any other members of the public attending the meeting.

A breakdown of the technology should not disadvantage the member of the public in remote attendance wherever possible. To that end a member of the public participating in a meeting remotely in exercise of their right to speak will be asked to submit their representation in writing, or by video to officers before the meeting, so that in the event of a breakdown of technology the representation can be read out by an Officer at the meeting or the video played.

A Remote Licensing Hearing will not automatically be deferred if someone who has registered to speak on an application is not available on the contact telephone number(s) provided.

Amendment to the 'Licensing Committee and Sub-Committee Hearings Procedure' paragraph 8 - 'Public Participation at Licensing Sub-Committees' - In relation to Remote Licensing Hearings and Remote Attendance by Members of the Public

(a) A member of the public entitled to attend the Remote Licensing hearing in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:

(i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;

(ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and

(iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

(b) A member of the public in remote attendance at a Remote Licensing Hearing will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained above are not met. In such circumstance the Chair may, as he or she deems appropriate:

(i) adjourn the meeting for a short period to permit the conditions for remote attendance to be re-established;

(ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or

(iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.

(iv) a member of the public who has registered to speak will be asked also to provide a written copy of their submission in advance of the meeting or video.

5. Filming of Remote Meetings

The Agenda is divided into two parts, with Part I items being considered in the presence of the press and public. Part II Items will be considered in the absence of the press and public for the reasons indicated on the Agenda and relevant reports. It should be noted that discussions held in Part I are recorded and that the recordings are uploaded to the Council's Website.

The Council cannot control third parties who may record the meeting and use the contents on social media platforms.

Amendment to Council Procedure Rules 21.3 (Recording of Meetings) and Access to Information Procedure Rules (Rule 7.5 Reporting of Meetings by the Press and Public)

For the purposes of Remote Licensing Hearings the Council cannot control third parties who may record the meeting and use the contents on social media platforms.

Protocol on Remote Licensing Hearings

1. Introduction

1.1 The purpose of this Protocol is to clarify how the Licensing Sub-Committee will conduct remote licensing hearings. This Protocol only applies where all Parties agree to proceed with a remote hearing. Applicants may still request that their hearing is held in-person.

1.2 This Protocol should be read in conjunction with the Council's Licensing Committee and Sub-Committee Hearings Procedure. All hearings will be conducted with due regard to the Council's Constitution and the Licensing Act 2003 (Hearings) 2005 Regulations.

2. Preparation for Remote Licensing Hearings

2.1 Remote Licensing Hearings will be held on the platform of Microsoft Teams.

2.2 All Applicants, Responsible Authorities and other persons who have submitted a valid representation ("Parties") will be provided with a link to access the meeting prior to the commencement of the hearing. Only these Parties will be able to participate in the hearing (together with their advisers) provided they have registered, in advance, with the Licensing Authority, as specified below. A link for the general public to watch the meeting will be available on the Council's website.

2.3 Any documentary evidence that is not submitted to the Council in advance of the meeting will not be admitted without the agreement of all Parties. If it is essential to a Party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all Parties a fair opportunity to consider it.

3. Rules during Remote Licensing Hearings

3.1 The following rules must be followed by all Parties to ensure the remote hearing can be conducted fairly.

a) All Parties wishing to participate in the hearing must register their wish to participate in the hearing and provide their email addresses and contact telephone numbers to the Licensing Authority no later than 5 working days before the hearing is scheduled to take place in accordance with The Licensing Act (Hearings) Regulations 2005.

b) All Parties should join the meeting link at least 15 minutes before the advertised start time to ensure they are ready to start at the advertised start time. Participants will be placed in the waiting room until the commencement of the meetings. After the advertised start time has passed no registered parties willbe allowed to join, except in exceptional circumstances, when permitted by the Chair.

c) All Parties must only address the hearing when invited to do so by the Chair.

d) All Parties must keep their microphones on mute unless they are speaking. The Chair has the ability to mute all parties' microphones.

e) If a Party wishes to speak, they should use the participant's "raise hand" facility. The Chair has the discretion to invite the party to make their comment at an appropriate stage in the hearing.

f) All Parties are asked to keep their comments as succinct as possible.

g) If a Party has a question for another party, this must be addressed to the Chair who will have the discretion to ask the relevant party to respond.

h) Any Party wishing to make suggestions as to the conditions that may be imposed in the event of the application being granted should do so by reference to the schedule of proposed conditions set out in the Conditions Schedule annexed to the Agenda papers. In so doing, they should use the

same numbering in that Schedule. This is to ensure that there is ease of referencing the conditions by all the Parties.

i) When referring to the hearing papers, participants should give the page and paragraph number where appropriate.

j) The Chair has the discretion to amend these rules in any given case where they consider it appropriate to do so.

4. Procedure

(1) The Licensing Officer/Manager will introduce the details of the application/matter, the reason for the hearing and the documentation.

(2) Each party making representations will address the hearing in turn and will call other persons where permission has been given to do so.

(3) The applicant/licence holder will present their case and will call other persons where permission has been given to do so.

(4) Members of the Sub-Committee may question all parties and persons.

(5) Questions from the parties must be directed through the Chair unless cross examination has been permitted by the Chair.

(6) All parties will have the opportunity to make a closing statement, with the applicant/ licence holder having the final word.

(7) The Sub-Committee will withdraw to make its decision and formulate the reasons for the decision in private, and will ask the Council's Legal Adviser to join it in order to assist in documenting the decision and the reasons or to provide clarification on any point.

(8) The decision will be announced in public and confirmed in writing (in certain circumstances, the decision may not be made on the same day of the hearing).

(9) In the event that legal advice has been sought for clarification on any point, then the point raised and the advice given will be declared to all parties.

(10) Following the meeting, within five working days, all parties to the proceedings will receive formal written confirmation of the Committee decision and the reasons for the decision.

5. Outcome of the Hearing

5.1 Following closing statements the Sub-Committee will retire into a separate private meeting accompanied by the Legal Advisor to deliberate and make its decision. At this point in the proceedings the meeting will be adjourned however it is important that all Parties remain available should Members have any further questions.

5.2 When the deliberations have ended and a decision reached, the Sub-Committee will re-join the Live meeting. The decision of the Sub-Committee will be read out. Following this the Chairman will close the meeting and the Livestream will be ended.

5.3 Formal Notification of the decision will be sent out to all Parties within 5 working days of the meeting unless otherwise required or permitted by Regulations.

6. Failure to attend

6.1 If a party, who has not given prior notice of their intention to attend or not to attend the hearing and is absent from the hearing, the Sub-Committee may either adjourn the hearing or hold the hearing in the party's absence. Where the hearing is held in the absence of a party, the Sub-Committee will still consider the application, representation or notice submitted by that party.

7. Disruptive Behaviour

7.1 Regulation 25 of the Licensing Act 2003 (Hearings) Regulations 2005 ("the Regulations") allows the Council to require a person behaving disruptively to leave.

7.2 The Committee may require any party attending the hearing, who in their opinion is behaving in a disruptive manner, to leave the hearing and may refuse to permit that person to re-joining or permit them to return only on such conditions as the Committee may specify.