



**Cumberland  
Council**

# **CONSTITUTION**

Approved on ... 2023

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# Part 1

## Introduction, Summary and Explanation

This document is the Council's Constitution. It contains details of how the Council works, how decisions are made and where you can find out information about it.

It also details the rights of Members of the Public and how they can use them. Cumberland Council wants to be a community led Council and believes that we should work with our residents, businesses and service users to create strong and resilient communities and ensure that Cumberland is a great place to live, work, and visit. We want to actively encourage and support people getting involved in meeting these aspirations.

You will see boxes at the beginning of each section like this which will give you a summary of what information you can expect to find within the document and provide you with a brief introduction.

# 1 INTRODUCTION

- 1.1 On 1<sup>st</sup> April 2023, a new council, namely Cumberland Council (usually referred to in this document as simply “the Council”), took on responsibility for local government services previously delivered by Allerdale Borough Council, Carlisle City Council and Copeland Borough Council. It also took on the powers of the former County Council within its boundary. It was created by the Cumbria (Structural Changes) Order 2022 (also referred to as “**the 2022 Order**”). 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 the area.
- 1.2 Cumberland Council covers a large geographic area with diverse and different communities.
- 1.3 This constitution sets out
  - 1.3.1 How the Council operates;
  - 1.3.2 How its decisions are made; and
  - 1.3.3 What procedures will be followed.
- 1.4 The Council is required by the Local Government Act 2000 to maintain a constitution and, whilst some of the processes in this constitution are required by law, others are needed to make sure that those responsible for delivering public services are accountable, that decisions are transparent and that they are in the public interest.
- 1.5 Generally speaking, the Council will exercise its powers and duties in accordance with the Constitution, unless the law requires the Council to do something else or the relevant provisions are waived.
- 1.6 The constitution governs the actions of elected Councillors, any persons co-opted to its decision-making arrangements, its officers, contractors and where identified, third parties.
- 1.7 The constitution can only be changed by full council, in public session, unless there are minor or consequential changes which can be completed by the Monitoring Officer. (A consequential change is one which arises from a change in the law or a decision made by the council on another matter, which means that the wording in the constitution needs to be changed to reflect the impact of that – e.g. a change of name of a committee or an officer post).
- 1.8 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](#).
- 1.9 Defined terms are included in the Glossary in **Part 6**. They are shown in bold **like this**.
- 1.10 Wherever possible, this constitution is written in plain English because the Council wants to provide a clear and accessible explanation of how the council operates. If you have suggestions as to how the constitution can be improved,



then please contact Clare Liddle who is the Monitoring Officer and responsible for the upkeep of the constitution.

- 1.11 The Monitoring Officer's contact email address is MonitoringOfficer@cumberland.gov.uk.

## 2 THE CONSTITUTION

- 2.1 The Constitution is divided into seven 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 Members' Allowance Scheme, which sets the level of financial allowances which Councillors receive for performing their duties.

**Part 6** contains diagrams of the Council's management structure and a **Glossary** which explains some of the terminology used in this document. Terms in the glossary and Parts of the Constitution are shown in **bold**.

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

- 2.2 There are a number of other codes, protocols and policy documents which govern how the Council operates which do not form part of this Constitution. Where the Constitution refers to these documents, they will be made available on the Council's website via a hyperlink.

## 3 HOW THE COUNCIL OPERATES

### Councillors

- 3.1 The Council has 46 **Councillors** (also known as "**members**") who are elected by and are democratically accountable to the people in their wards. There are 46 wards in the Council's area. Each ward has one Councillor. The wards are described in the 2022 Order and are subject to review by the Electoral Commission from time to time.
- 3.2 Councillors are directly accountable to their constituents for the running of the Council. They have a duty to represent all their constituents, including those

who did not vote for them, combined with a duty to make decisions in the interests of the whole area of Cumberland, over and above any particular part of it.

- 3.3 Only registered voters of the Council's area or people living or working here are eligible to stand to be elected as a Councillor.
- 3.4 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). Find out when the **next election** will take place.
- 3.5 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.
- 3.6 Councillors have to adhere to 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. If you have any concerns about a Councillor then you can contact the **Monitoring Officer** who is responsible for upholding ethical standards.
- 3.7 Councillors are entitled to receive allowances in accordance with the Member Allowances Scheme set out in **Part 5** of this Constitution.
- 3.8 All Councillors have the following roles and functions:
  - 3.8.1 representing their communities and bringing their views into the Council's decision-making process, i.e. becoming the advocate of and for their communities;
  - 3.8.2 contributing to the good governance of the area and encouraging community participation;
  - 3.8.3 dealing with individual casework and acting as an advocate for constituents in resolving particular concerns or grievances;
  - 3.8.4 balancing different interests identified within the Ward and representing the Ward and the Council as a whole;
  - 3.8.5 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);
  - 3.8.6 being involved in decision-making;

- 3.8.7 being available to represent the Council on other bodies; and
  - 3.8.8 promoting and maintaining the highest standards of conduct and ethics.
- 3.9 All Councillors meet together as the Council (sometimes called “Full Council”). Formal meetings of the Council are normally open to the public with the exception of **confidential or exempt items**. At these meetings, Councillors decide upon key strategies and policies for how the Council operates and will set the budget each year. The Council appoints the leader who in turn appoints councillors to be part of the **Executive** and may delegate powers and responsibilities to them. Each year, the Council also appoints **Committees** to carry out certain local government functions, such as planning and licensing, and political groups will nominate councillors to be members of those committees. Most committees are politically balanced, which means that membership will reflect the political make-up of the whole council.
- 3.10 The Council is responsible for holding the Executive to account for its actions and does this by questioning Councillors who are members of the Executive and by allowing the public to do the same. It also appoints **Overview and Scrutiny Committees** which act as a “critical friend” to the Executive by reviewing the decisions of the Executive and helping to formulate policies.
- 3.11 Councillors will work closely with **officers** in developing policies and strategies, to give directions to the Council’s vision and values and to ensure services are effectively delivered in accordance with its wishes. Councillors do not, however, have a role in the actual delivery of services and cannot be employed by the Council in any capacity.

### **Council officers**

- 3.12 The Council has people working for it to give advice, take steps which are needed to implement decisions and manage the day to day delivery of services.
- 3.13 The most senior officer is the Chief Executive. Other senior managers lead different parts of the Council’s services. Some officers have specific responsibility by law to make sure that the Council acts lawfully and uses resources effectively, economically and efficiently. These are the Council’s **statutory officers**:
- 3.13.1 **Head of Paid Service**, responsible for the Council’s officers (at Cumberland Council this is the Chief Executive);
  - 3.13.2 **Monitoring Officer**, responsible for making sure that the Constitution is followed, that Councillors obey the Code of Conduct, and for reporting upon illegality and maladministration in council business; and.
  - 3.13.3 **Chief Finance Officer**, responsible for the proper administration of the Council’s financial affairs.
- 3.14 The Council’s Senior Management Structure is set out in **Part 6**.

- 3.15 All Council Officers must comply with a 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.

## **4 HOW THE COUNCIL MAKES DECISIONS**

### **Principles of Decision Making**

- 4.1 Decisions within the Council can either be made by elected **Councillors** or **Officers**. Generally, Councillors make important strategic decisions on policy and Officers make the operational decisions within those policies. It is important that Councillors and Officers work together for the benefit of Cumberland.
- 4.2 When the Council makes decisions, we will make sure that we do the following:
- 4.2.1 Make sure that the action we are taking is proportionate to the results we need to achieve;
  - 4.2.2 Make sure that we consult where appropriate to do so;
  - 4.2.3 Respect human rights;
  - 4.2.4 Ensure that the decision represents **best value** for Cumberland;
  - 4.2.5 Ensure that we are open and transparent in the way we make decisions;
  - 4.2.6 Be clear about what we trying to achieve and what the outcomes will be;
  - 4.2.7 Consider whether an alternative option is more appropriate; and
  - 4.2.8 Give reasons for why we have made decisions

### **Types of Decision and Decision Takers**

#### **Full Council**

- 4.3 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.
- 4.4 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 sets the Council's budget each year.

- 4.5 Council also appoints a number of committees to deal with regulatory functions such as Planning and Licensing. See [details of the Council's Committees](#).
- 4.6 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**).
- 4.7 This [diagram](#) shows the overall structure of the Council's decision making arrangements.

### **Executive**

- 4.8 The Council has adopted an executive form of governance. This means that members of the Council elect 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 **Executive** and are responsible for certain decisions such as policy matters, including recommending the [Budget and Policy Framework](#) to Council, housing, education, social care, land and property and economic regeneration.
- 4.9 Councillors that are not part of the Executive or the opposition shadow Executive are known as backbenchers. These Councillors are largely responsible for the scrutiny of executive decisions and for making the types of decisions which are not permitted to be made by the Executive. Backbench Councillors may sit on the [Council's Committees](#).
- 4.10 The Executive is the part of the Council which is responsible for most day to day decisions.
- 4.11 The Executive is made up of the Leader and up to 9 additional Councillors and can be formed from a single political party. The Council has decided that the Leader will be elected 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.
- 4.12 Executive decisions may be taken by the Leader, a committee of the Executive, an individual member of the Executive or by an officer as authorised under the [Officer Scheme of Delegation](#) in Part 2. A decision may also be taken under joint arrangements by or with another authority.
- 4.13 Each of the Councillors who are members of the Executive are responsible for a particular area of the Council's activities (called "**Portfolios**"). Members of the Executive are also sometimes called **Portfolio Holders**. Details of how the Executive operates and the current Executive Portfolios can be found [here](#).

- 4.14 The Executive 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 (ie not in accordance with) the **Budget or Policy Framework** this must be referred to Council to decide.
- 4.15 Executive will usually make decisions in a meeting open to the public. Where Executive intends to discuss any matter in private, a notice will usually be published 28 days before the meeting and a further notice will be published when the agenda for the meeting becomes available.
- 4.16 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.
- 4.17 Some decisions, as a matter of law, are not decisions which the Executive may make. These decisions include Planning, Licensing and staffing matters. The Council has set up a number of committees to deal with these matters, with some matters reserved to a meeting of the full Council.
- 4.18 It is the duty of the Executive to work constructively and openly with backbench, opposition Councillors and officers to make sure that the overview and scrutiny process is working correctly.

### **Overview and Scrutiny Committees**

- 4.19 **Overview and Scrutiny Committees** support the work of the Executive and Council as a whole. Their role is to hold the Executive to account and provide reviews into Council functions where appropriate. Individual Councillors may ask for items related to Council functions to be placed on the agenda of an Overview and Scrutiny Committee. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery.
- 4.20 The Overview and Scrutiny Committees also monitor the decisions of the Executive. Those Councillors who are not on the Executive can 'Call-in' a key decision that has been made by the Leader or Executive, but not yet implemented. This enables the relevant Overview and Scrutiny Committee to consider whether the decision is appropriate. The Overview and Scrutiny Committee may recommend that the Executive reconsider the decision.
- 4.21 The Overview and Scrutiny Committees may also be consulted by the Executive or the Council as a whole on forthcoming decisions and the development of policy.

## **5 OTHER ARRANGEMENTS**

- 5.1 The Council has other Committees which make decisions on public functions (eg planning and licensing). These are described in more detail in Part 2. In

addition, the Council has the following arrangements which will enable it to work closely with Members of the Public and other partnership bodies.

### **Community Panels**

- 5.2 The Council has appointed **Eight** Community Panels in order to give members of the public, service users and residents a greater say in Council affairs, to improve service delivery in the context of **best value** and to ensure more efficient, transparent and accountable decision making.
- 5.3 The role of the Community Panels is to encourage community engagement and local decision making and they may report on matters of local concern to the Executive, Overview and Scrutiny Committee, or the Council. Each Community Panel will work with the community to develop a plan setting out the priorities for their area. The Community Panels may be given, or may request, some Executive and non-Executive responsibilities, may be given budgets and have maximum spending limits. The exercise of their responsibilities is subject to following the Council's decision making requirements and applicable Procedure Rules set out in this Constitution, including the Financial Procedure Rules and Contract Procedure Rules. The Community Panels comprise those Councillors who have been elected in each particular area, as detailed on the **Council's website**, and meetings are normally held in public.
- 5.4 The Council and the Executive will include details of any delegations to the Community Panels in **Part 2 Section 5** of this Constitution, including the functions delegated (showing which are the responsibility of the Executive and which are not), budgets and any limitations on delegation.
- 5.5 The Council will consult with the chairs of relevant parish and town councils and other relevant persons/ organisations when considering delegation of functions to Community Panels.

### **The Health And Wellbeing Board**

- 5.6 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.

### **Joint Committees**

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

## **6 THE ROLE OF THE CHAIR**

- 6.1 The Chair is the “first citizen” of the Council’s area.
- 6.2 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):
  - 6.2.1 promoting public involvement in the Council’s activities;
  - 6.2.2 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;
  - 6.2.3 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;
  - 6.2.4 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 Executive are able to hold the Executive and committee chairs to account;
  - 6.2.5 keeping order at Council meetings and ensuring that Councillor behaviour is of the highest standard and does not bring the Council into disrepute;
  - 6.2.6 exercising a second or “casting” vote in the event of a tied vote;
  - 6.2.7 subject to the advice and guidance of the Head of Paid Service, Chief Finance Officer or Monitoring Officer during Council meetings, interpreting the Constitution as and when necessary; and
  - 6.2.8 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 shall decide to move on to the next item of business under the Procedure Rules in Part 3.

## **7 RIGHTS OF MEMBERS OF THE PUBLIC**

- 7.1 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.
- 7.2 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.
- 7.3 Members of the public have the right to:
  - 7.3.1 vote at local elections if they are registered on the electoral roll;



- 7.3.2 stand for election as a Councillor if they live or work in the Council's area, in line with guidance from The Electoral Commission;
- 7.3.3 attend the Council's meetings except where confidential or exempt information is being discussed (see Access to Information Procedure Rules in Part 3);
- 7.3.4 contact local Councillors about any matters of concern – [access Councillor details](#)
- 7.3.5 contribute to reports and investigations by the [Overview and Scrutiny Committee](#);
- 7.3.6 complain where there are problems with Council services – [access a complaint form](#)
- 7.3.7 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 – [access the Ombudsman complaint form](#)
- 7.3.8 complain to the Monitoring Officer if there is evidence that a Councillor has not followed the Council's Code of Conduct for Councillors – [access the Code of Conduct Complaint Form](#)
- 7.3.9 inspect the Council's accounts and make views known to the Council's external Auditor;
- 7.3.10 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;
- 7.3.11 find out from the [notices of forthcoming key decisions](#) what significant decisions will be taken by the Leader, Executive or officers and when; and
- 8.3.12 see [reports and background papers, and any records of decisions made](#) by the Council and the Executive (except where those reports and papers contain confidential or exempt information). Hard copies of documentation can be obtained from the main council offices at Cumbria House, Botchergate, Carlisle.
- 7.3.12 ask questions, present petitions and take part in meetings of the Council and its Committees in accordance with the Council's [Rules](#) set out in part 3, which may include:
  - (a) addressing meetings of Council to ask questions (where prior notice is given);

- (b) Addressing meetings of Executive to ask questions (where prior notice is given);
- (c) Speaking at Planning Committee about a planning application (in accordance with the Committee's rules on public speaking);
- (d) making representations to the Licensing and Regulatory Committees as applicants or objectors in respect of individual applications;
- (e) speaking at Committee meetings on certain items (in accordance with the Committee's rules on public speaking); and
- (f) 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.

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

- 8.1 Council is responsible for adopting and agreeing changes to the Constitution.
- 8.2 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:
  - 8.2.1 legislative references are updated;
  - 8.2.2 it reflects the Council's structures and decision-making requirements;
  - 8.2.3 consequential amendments are made as a result of Council decisions; and
  - 8.2.4 any other required changes are made as appropriate.
- 8.3 Substantive changes to the Constitution will only be approved by the Council.
- 8.4 In the event of a proposed change of governance arrangements from a Leader and Executive 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.

## **9 SUSPENSION OF THE CONSTITUTION**

- 9.1 Any requirement of the Constitution may be waived or suspended by Council (or the Executive in relation to executive functions) to the extent permitted within the Procedure Rules in **Part 3** of this Constitution and the law.

## **10 PUBLICATION**

- 10.1 Copies of the Constitution are available to view on the **Council's website** (which is the definitive version) or from the Monitoring Officer whose email address is [clare.liddle@cumberland.gov.uk](mailto:clare.liddle@cumberland.gov.uk).
- 10.2 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.
- 10.3 The Monitoring Officer will ensure this Constitution is available for inspection on the Council's website and at the designated Council offices. Printed copies can be purchased by the local press and the public on payment of a reasonable fee.

## Part 2

# Responsibility for Functions

Decisions within the Council can be made either by elected Councillors or officers. Generally, elected Councillors make important strategic decisions on policy and officers make the operational decisions to give effect to those policies. It is important that elected Councillors and officers work together for the benefit of Cumberland.

This section provides an introduction to how decision making works, and sets out which elected councillor, committee or officer has responsibility for making particular decisions.

## 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 **Executive** (the collective term for the Leader, individual Executive Councillors, the Executive or a committee of the Executive);
  - 1.2.3 Committees and sub-committees of the Council or the Executive;
  - 1.2.4 Joint Committees; and
  - 1.2.5 Officers.
- 1.3 All of the Council's functions are either "executive" or "non-executive". **Executive functions** are the responsibility of the **Executive** 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 **Executive**, unless in law they are prevented from being exercised by the Executive. **Non-executive functions** (or Council functions) are specified in Regulations issued under the 2000 Act and include functions such as those relating to officers, planning and licensing. Non-executive functions may be delegated to committees, sub-committees or officers under Section 101 of the Local Government Act 1972 ("the 1972 Act"). Unless specified as a non-executive function, a function is presumed to be an executive function.
- 1.5 The **Executive** is the part of the Council which is responsible for most day-to-day decisions, including **key decisions**. The Executive is made up of the **Leader** and a number of **Executive Councillors** selected by the Leader and which make up the **Executive**. The Executive might also establish committees and sub-committees. All key decisions will be published in advance in the Forward Plan in so far as they can be anticipated.
- 1.6 The Executive 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 Executive Councillor or a committee

of the Executive. Each year, the Leader will record which executive functions may be carried out by individuals or committees and this Constitution will be updated accordingly. This record is set out in this Part 2 of the Constitution and will be published alongside it.

- 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 further delegation 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 **social value**, and to environmental considerations and impacts;
  - 2.1.7 respect human rights and advance equality of opportunity;
  - 2.1.8 avoid, and seek to eliminate, discrimination, harassment and victimisation;
  - 2.1.9 approach decision making on a transparent and open basis;
  - 2.1.10 consider how the decision contributes to the Council Plan; and
  - 2.1.11 assess the impact of the decision and recommend mitigations using a proportionate impact assessment.

2.2 In the circumstance of a sub-committee 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 is permitted, 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, and 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 Executive 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(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 the Statutory Chief Officers (the Head of Paid Service, Chief Finance Officer or Monitoring Officer) may require, which may include risk, staffing, equalities, crime and disorder, public health 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 **Executive** makes decisions, these will comply with the **Executive 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:
  - 4.5.1 the body or person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights (Fair Hearing); and
  - 4.5.2 subject to any statutory rules or procedures detailed elsewhere in the Constitution, a body acting as a tribunal is permitted, 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 (Part 3(3)), the public and press, and the decision making may thereafter be taken in private adjournment. 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 (Decision making in private).

- 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 **Executive** 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 **Executive Councillors**, the **Executive** 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 functions which are reserved to joint committees established by the Council.
- 4.12 **Part 2** Section 7 sets out the principles of the Officer Scheme of Delegation for all functions and powers not otherwise reserved to Councillors. Section 8 sets out the functions of the Proper Officers of the Council.

## **5 FINANCE, CONTRACTS AND LEGAL MATTERS**

### **5.1 Finance**

- 5.1.1 The Council manages its financial affairs in accordance with the Financial Procedure Rules

### **5.2 Contracts**

- 5.2.1 The way that the Council procures, enters into and/or manages contracts shall be in accordance with the Contracts Procedure Rules.

### **5.3 Authentication of Legal Documents**

- 5.3.1 The Monitoring Officer or any person authorised by them shall sign documents which are necessary to any legal proceedings.
- 5.3.2 Certain documents shall have the Council’s Common Seal affixed to them (including by electronic means) rather than the signature of an officer. The affixing of the Common Seal shall be attested by the Monitoring Officer or any other Officer authorised by them.

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

### **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 Executive);
- 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 **Executive** 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 Executive for information, views or debate (but recognising that an

Executive matter remains the sole responsibility of the **Executive** 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, except where delegated to the Monitoring Officer;
- 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 **Executive**;
- 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) 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 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, which will usually be held in May;
  - 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;
  - 3.1.2 Proposed contingency funds;

- 3.1.3 The Council tax base;
  - 3.1.4 Setting the Council Tax;
  - 3.1.5 The Council's borrowing requirement;
  - 3.1.6 The Council's capital expenditure; and
  - 3.1.7 The setting of virement limits.
- 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

- 4.1 The **Policy Framework** is a list of those plans and strategies that must be adopted by a meeting of the full Council and, once agreed, set the boundaries 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:
- (a) Crime and Disorder Reduction Strategy;
  - (b) Development plan documents, including
    - (i) Local Plan;
    - (ii) Core Strategy and Development Plan; and
    - (iii) 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) Pay Policy Statement; and
- (h) 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 Executive as Council may from time to time determine.

## 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		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 or other licensing, consent, permission or registration function (including development control functions)	Executive	
2	Any function under a Local Act in respect of a licensing , consent, permission or registration function including development control functions	Regulatory Committee or (in respect of any development control functions) Planning Committee	
2	The determination of any appeal against any decision made by or on behalf of the Council	Standards and Governance Committee or (in respect of matters relating to disciplinary and employment) Staffing Committee	
3	The appointment of review boards under regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998.	Council	
4	The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools.	Executive	

Local Choice Functions		Decision Maker	Further Delegation
5	The making of arrangements pursuant to sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (admissions appeals).	Executive	
6	The making of arrangements pursuant to section 95(2) of the 1998 Act (children to whom section 87 applies: appeals by governing bodies).	Executive	
7	The making of appointments of Councillors under the Police Reform and Social Responsibility Act 2011.	Council	Monitoring Officer
8	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  Regulatory Committee	
9	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  Regulatory Committee	
10	The service of an abatement notice in respect of a statutory nuisance.	Regulatory Committee	
11	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Executive	



Local Choice Functions		Decision Maker	Further Delegation
12	<p>The inspection of the authority's area to detect any statutory nuisance and the investigation of any complaint as to the existence of a statutory nuisance</p> <p>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:</p>	<p>Executive</p> <p>Regulatory Committee</p>	
14	The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	<p>Planning Committee</p> <p>and (in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders only) Executive</p>	
15	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	<p>Executive (in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders only) and</p> <p>Planning Committee and Regulatory Committee (in connection with each of their respective functions)</p>	
16	The making of agreements for the execution of highways works.	Executive	
17	The appointment of any individual—	Council	Monitoring Officer

Local Choice Functions	Decision Maker	Further Delegation	
<p>(a) to any office other than an office in which he is employed by the authority;</p> <p>(b) to any body other than—</p> <p>(i) the authority;</p> <p>(ii) a joint committee of two or more authorities; or</p> <p>(c) to any committee or sub-committee of such a body,</p> <p>and the revocation of any such appointment.</p>	<p>except where the function to which the appointment relates is an executive function, in which case: Executive</p>		
18	<p>The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.</p>	<p>Staffing Committee</p> <p>Except where the arrangement relates to the discharge of an executive function, in which case: Executive</p>	
19	<p>Any function of a local authority in their capacity as a harbour authority (to the extent that the function does not fall within row 1 of this table.</p>	<p>Harbours Committee</p>	

## **Part 2 – Section 4: Responsibility for Executive Functions**

### **1 THE EXECUTIVE**

#### **Role**

- 1.1 The Executive 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 Executive Councillor, by an officer, by a committee of Executive, or under joint arrangements.
- 1.2 Executive decision making (aside from those executive functions delegated to Officers and Committees of the Executive) shall be exercised by the Executive as a whole. No executive functions are currently delegated by the Leader to individual Executive Councillors.

#### **Form**

- 1.3 The Executive will consist of the Leader together with at least two but not more than nine Councillors appointed to the Executive by the Leader.
- 1.4 No substitution arrangements will apply to the Executive, and neither the Chair nor Deputy Chair may be appointed to the Executive.

#### **Leader**

- 1.5 The Council has decided that the Leader will be a Councillor elected to the position of Leader by the Council following the four-yearly elections. The Leader will remain in position until the Annual Council meeting following the next four yearly elections, or until:
  - 1.5.1 they resign from office;
  - 1.5.2 they become ineligible to be a Member of the Council, either for a specific period or indefinitely;
  - 1.5.3 they cease to be a Councillor;
  - 1.5.4 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.)

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

- 1.6.1 If this is in consequence of being removed by resolution of Council, a new Leader may be elected at the same meeting; or
- 1.6.2 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 Executive Councillors**

- 1.7 Other Executive Councillors 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 1.4.1 – 1.4.3 above apply to them or to the Leader, or until the Leader brings their term of office to an end.

### **Deputy Leader**

- 1.8 The Leader shall appoint one Councillor of the Executive 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 Executive must act in the Leader's place or must arrange for a Councillor of the Executive to act in their place, until a decision is made by the Council to appoint a new Leader.
- 1.9 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:
  - 1.9.1 They resign from the office;
  - 1.9.2 They cease to be an Executive Councillor;
  - 1.9.3 They are removed from office by the Leader.

## **2 PORTFOLIO RESPONSIBILITIES FOR EXECUTIVE COUNCILLORS**

- 2.1 Executive Councillors shall have the responsibilities as determined by the Leader from time to time.
- 2.2 Details of the **current Executive Councillors** and the **portfolios** are available on the Council's website.

## **3 GENERAL RESPONSIBILITIES OF THE EXECUTIVE**

- 3.1 The Executive 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 EXECUTIVE COUNCILLORS**

- 4.1 The following are the general responsibilities which apply to all Executive Councillors.
- 4.2 There are occasions when matters affect more than one portfolio of responsibility. On such occasions, the Executive Councillor with the primary responsibility shall take the lead, but in consultation with all Executive Councillors with an interest.
- 4.3 Each Executive Councillor 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 Executive;
  - 4.3.2 provide guidance to the Executive on delivering services within their portfolio area;
  - 4.3.3 give guidance to the Executive 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 EXECUTIVE**

- 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 Executive collectively except where the matter is dealt with under joint arrangements or delegated to an officer or where the Leader has delegated the decision to an individual Executive Councillor.
- 5.3 **Key Decisions** will be taken by the Executive collectively except where the matter is dealt with under joint arrangements or delegated to an officer or where the Leader has delegated the decision to an individual Executive Councillor.

## **6 INABILITY OF WHOLE TO ACT**

- 6.1 If each and every one of the Councillors of the Executive are unable to act for any reason the Council will appoint an interim Executive to discharge the relevant executive functions.

## **7 PROCEEDINGS OF THE EXECUTIVE**

- 7.1 Proceedings of the Executive shall take place in accordance with the **Executive 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 **Part 2** of this Constitution by the Monitoring Officer, setting out which individual Councillors of the Executive, committees of the Executive, officers 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 Executive Councillors, committees of the Executive, officers or under joint arrangements. Any such arrangements will be reported to Council for information.

- 8.3 The Leader may also make in-year amendments to the Scheme of Delegation which shall be reported to the Monitoring Officer who shall place the amendments before the next available ordinary meeting of the Council for information.

## **9 COMMITTEES OF THE EXECUTIVE**

- 9.1 The Leader or the Executive may delegate any of its functions to a committee of the Executive. Committees of the Executive shall report to the Executive. If the Committee is to have decision-making powers then the Committee may only include Executive Councillors. The Leader or the Executive may also establish advisory committees, the membership of which need not be limited to Executive Councillors. The Leader or the Executive may change them, abolish them, or create further ones, at its own discretion.
- 9.2 Committees established by the Leader or the Executive shall be empowered to perform these functions with immediate effect unless the Leader or the Executive 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 Executive and all advisory or consultative liaison committees will continue in operation only until the first meeting of the Executive 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 Executive can still be taken by the Executive as the parent body (where the Executive has delegated that function) or by the Leader either personally or in accordance with the Leader's delegation of those functions to an individual Executive Councillor or an alternative committee of the Executive.
- 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.

### **Highways and Transport Strategic Board**

- 9.5 The Council has established a Highways and Transport Strategic Board as a Committee of the Executive, formed as follows:
- 9.5.1 The Highways and Transport Strategic Board is a Committee of the Executive and shall be comprised of such of the Executive Members as the Leader or Executive shall determine
- 9.5.2 The Chair and Vice Chair of each Community Panel shall have the right to attend and speak at meetings. They will not have voting rights.
- 9.5.3 The Committee will meet at such times as shall be agreed by its members.
- 9.5.4 The Committee shall not be quorate unless three voting members are present.

- 9.5.5 One of the relevant Executive Councillors shall act as its Chair.
- 9.5.6 There shall be a right on the part of any member of the Committee to require the reference of any matter to the full Executive for determination.
- 9.5.7 Any local councillor for each ward directly affected by a matter to be considered by the Committee shall receive notification of that matter to enable them to make representations to the Committee in writing or in person (any failure to receive notification will not invalidate a decision).

### **Terms of Reference**

- 9.5.8 The Highways and Transport Strategic Board is a Committee of the Executive and shall be responsible for the exercise of the following executive functions (unless or until the Leader or Executive shall determine otherwise):
- (a) To agree and keep under review the implementation of the rolling 3 year strategic programme for highways and transport (revenue and capital) and the one year delivery plan.
  - (b) To recommend to Council any Highways or Transport Strategies and Policies within the Policy Framework for example the Local Transport Plan.
  - (c) To agree strategies and policies relating to Highways and Transport that are not in the Policy Framework.
  - (d) To agree responses to highways and transport consultation papers when referred by the Director or not reserved by Executive.
  - (e) To authorise the entering of agreements with public transport operators to provide financial support for services which are not available commercially.
  - (f) To consider and determine traffic management matters, other than those matters that are the responsibility of the Community Panels under the agreed Locality Scheme Budget, and those matters that require urgent determination or are of a temporary nature. The relevant local Councillor shall be notified of the matter.
  - (g) To consider information and updates provided by the Director on highways asset management strategy and delivery plan for promoting best practice and the implementation of asset management principles for all highway maintenance activities.
  - (h) To receive and consider referrals from Community Panels on Highways and Transport matters.



## **Nuclear Issues Board**

- 9.6 The Council has established a Nuclear Issues Board as a Committee of the Executive, formed as follows:
- 9.6.1 The Nuclear Issues Board is a Committee of the Executive and shall be comprised of such of the Executive Members as the Leader or Executive shall determine.
  - 9.6.2 The Committee will meet at such times as shall be agreed by its members.
  - 9.6.3 The Committee shall not be quorate unless three voting members are present.
  - 9.6.4 One of the relevant Executive Councillors shall act as its Chair.
  - 9.6.5 There shall be a right on the part of any member of the Committee to require the reference of any matter to the full Executive for determination.
  - 9.6.6 Any local councillor for a ward directly affected by a matter to be considered by the Committee shall receive notification of that matter to enable them to make representations to the Committee in writing or in person (any failure to receive notification will not invalidate a decision).
  - 9.6.7 The Committee is able to invite such other persons, representatives and stakeholders as it considers will assist and inform its work (who shall be able to speak but not vote).

## **Terms of Reference**

- 9.6.8 The Nuclear Issues Board is a Committee of the Executive and shall be responsible for the exercise of the following executive functions (unless or until the Leader or Executive shall determine otherwise):
- (a) to advise the Executive on policy and issues relating to the nuclear industry in Cumberland including public and worker safety, environmental issues, socio-economic impact, the decommissioning of existing facilities and the possible development of new capacity.
  - (b) In carrying out its duties the Committee will, as and when necessary, liaise with industry stakeholders, with other local authorities, regional and central government and other governmental agencies and make recommendations on research.

## Part 2 – Section 5: Functions of Committees

The Council has the following Committees:

	Page
1. Audit Committee	
2. Standards and Governance Committee	
3. Planning Committee	
4. Licensing and Regulatory Committees	
5. Overview and Scrutiny Committees	
6. Health and Wellbeing Board	
7. Staffing Committee	
8. Independent Persons Panel	
9. Harbour Committee	
10. Corporate Parenting Board	
11. Joint Committees	
12. Community Panels	

## **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 **6** Councillors, which may be altered to accommodate the overall political balance calculation, together with an independent co-opted person.
- 1.5 Members of the Committee shall not be **Executive Councillors**.
- 1.6 The Chair and Vice-Chair will be appointed by **Council** annually. The Vice-Chair will be from a different political group from the Chair.

### **Quorum**

- 1.7 The Audit Committee quorum will be 3 elected Councillors.

### **Substitutes**

- 1.8 Each political group may appoint up to 4 substitute Councillors.

### **Competency**

- 1.9 All members of the Audit Committee and Councillors attending as substitutes must:
  - 1.9.1 have undertaken appropriate training in the relevant law and procedures which relate to the Committee's work; and
  - 1.9.2 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 and/or Chief Finance Officer.

### **Terms of Reference**

- 1.10 **Governance, Risk and Controls**

- 1.10.1 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**.
- 1.10.2 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.
- 1.10.3 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.
- 1.10.4 To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- 1.10.5 To monitor the effective development and operation of risk management in the Council.
- 1.10.6 To monitor progress in addressing risk related issues reported to the Committee.
- 1.10.7 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions, including calling managers to explain lack of progress.
- 1.10.8 To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.
- 1.10.9 To monitor the counter-fraud strategy, actions and resources.
- 1.10.10 To review the governance and assurance arrangements for significant partnerships or collaborations.
- 1.10.11 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.
- 1.10.12 To review and monitor the Council's treasury management arrangements in accordance with the **CIPFA** Treasury Management Code of Practice.
- 1.10.13 To monitor the Council's role as shareholder of **Council companies** and the effectiveness of the arrangements in this regard.

## 1.11 Internal Audit

- 1.11.1 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.
- 1.11.2 To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.
- 1.11.3 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.
- 1.11.4 To approve significant interim changes to the risk-based internal audit plan and resource requirements.
- 1.11.5 To make appropriate enquiries of both management and internal audit to determine if there are any inappropriate scope or resource limitations.
- 1.11.6 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.
- 1.11.7 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**.
- 1.11.8 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**

- 1.11.9 To consider summaries of specific internal audit reports as requested.
- 1.11.10 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.
- 1.11.11 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.
- 1.11.12 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
- 1.11.13 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.

## 1.12 External Audit

- 1.12.1 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.
- 1.12.2 To consider the external auditor's annual audit letter, relevant reports, and the report to those charged with governance.
- 1.12.3 To consider specific reports as agreed with the external auditor.
- 1.12.4 To comment on the scope and depth of external audit work and to ensure it gives value for money.
- 1.12.5 To commission work from internal and external audit.
- 1.12.6 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

## 1.13 Financial Reporting

- 1.13.1 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**.
- 1.13.2 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

#### 1.14 **Accountability Arrangements**

- 1.14.1 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.
- 1.14.2 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.
- 1.14.3 To publish an annual report on the work of the Committee.

#### 1.15 **Related Functions**

- 1.15.1 To approve and monitor Council policies relating to confidential reporting (whistleblowing) and anti-fraud and corruption.
- 1.15.2 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 comprise **8** Councillors in **political balance**.
- 2.2 The Chair and Vice-Chair will be appointed by **Council** annually. The Vice-Chair will be from a different political group from the Chair.

### **Quorum**

- 2.3 The Standards and Governance Committee **quorum** will be **3** Councillors.

### **Substitutes**

- 2.4 Each political group may appoint up to 4 substitute Councillors.

### **Competency**

- 2.5 All members of the Standards Committee and Councillors attending as substitute 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.

### **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 co-opted 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 Either itself or by setting up a sub-committee, 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 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.
- 2.14 To approve the granting, to any Council employee, of a dispensation in relation to disqualification from political activities Local Government and Housing Act 1989.
- 2.15 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 **Executive** 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 Standards and Governance Committee's agenda.
- 2.16 To consider reports arising from other external inspections, legal challenges and other sources which cast doubt on the honesty or integrity of the Council or its Councillors.
- 2.17 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. To undertake an annual review of the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA), ensuring compliance with the relevant Codes of Practice.
- 2.18 To respond on behalf of the Council to national reviews and consultations on standards related issues.
- 2.19 Either itself or by setting up a sub-committee, to receive reports from the Monitoring Officer on standards related issues.
- 2.20 To consider and make recommendations to **Council** on any other matter that may be referred to the Standards Committee relating to the conduct and training of Councillors.
- 2.21 Either by itself or by setting up a sub-committee, to consider amendments and improvements to the Constitution and recommend proposals to Council for approval, except where specifically delegated to the Monitoring Officer.

### **Sub-Committees, Panels and Working Groups**

- 2.22 Where the Standards and Governance Committee resolves to establish a sub-committee group of councillors under paragraph 2.10 above, that sub-committee shall be referred to as the Standards Panel and shall comprise between three (3) and five (5) members of the Standards and Governance Committee.
- 2.23 The Standards Panel may regulate 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 in this Constitution. This includes that, subject to any statutory rules or procedures detailed elsewhere, a Panel acting as a tribunal is permitted, 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, and the decision making may thereafter be taken in private adjournment.
- 2.24 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.
- 2.25 Where the Standards and Governance Committee has established a sub-committee of councillors under paragraph 2.21 above, that sub-committee shall be referred to as the Constitution Working Group and membership of that working group shall be of such cross-party Councillors as the Committee considers appropriate, whether or not such councillors are members of the Standards and Governance Committee. The Leader or Deputy Leader of each political group shall be an ex-officio member of the Working Group.

### **3 PLANNING COMMITTEE**

#### **Committee Scope**

- 3.1 The majority of planning applications are dealt with by officers under delegated powers from the Planning Committee, as they are relatively straightforward.
- 3.2 The Planning Committee will agree and keep under review a scheme of delegation setting out which matters may be dealt with by officers. This will be published on the Council's website and reported to Council for inclusion in the Constitution.
- 3.3 Where development control functions are not discharged by officers, the Planning Committee will consider applications and related planning matters which are being determined or considered by the Council as the Local Planning Authority.

#### **Composition**

- 3.4 The Planning Committee will comprise **10** Councillors, which may be altered to accommodate the overall political balance calculation.
- 3.5 The Chair and Vice-Chair will be appointed by Council annually. The Vice-Chair will be from a different political group from the Chair.

#### **Quorum**

- 3.6 The Planning Committee quorum will be 3 Councillors.

#### **Substitutes**

- 3.7 Each political group may appoint up to 4 substitute Councillors.

#### **Competency**

- 3.8 All members of the Committee and Councillors attending as substitutes must, before they may attend a meeting and participate in the determination of any application by any individual or body:
  - 3.8.1 have undertaken appropriate training dealing with the quasi-judicial nature of the role of the Committee;
  - 3.8.2 have undertaken appropriate training in the relevant law and procedures which relate to the Committee's work; and
  - 3.8.3 undertake further appropriate training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the Monitoring Officer or the relevant Director; and
  - 3.8.4 undertake an assessment of competency and knowledge.
- 3.9 Members and substitute members of the Planning Committee shall observe the **Councillors' Planning Code of Good Practice**.

## **Terms of Reference**

- 3.10 To exercise the Council's functions relating to town and country planning and development control, building control, Commons, highways, footpaths and other rights of way.
- 3.11 To determine all applications, including applications for large scale major development, and consultations submitted to the Council on any planning matter in accordance with the **Scheme of Delegation**.
- 3.12 Make orders under planning powers relating to comprehensive development areas, the discontinuance of the use of land, or the removal of buildings and works where compensation may become payable.
- 3.13 To exercise on behalf of the Council the function of final approval of the Area Action Plans, and any other document including a Site Allocation Policy, which form part of the Local Plan.
- 3.14 To 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 LICENSING AND REGULATORY COMMITTEES**

### **Committee Structure**

- 4.1 The Licensing functions of the Council shall be carried out by the following bodies:
- 4.1.1 A full Regulatory Committee of **10** Councillors in **political balance**;
  - 4.1.2 A full Licensing Committee of **10** Councillors (which may otherwise not be less than 10 or more than 15) which need not be in political balance but which membership shall comprise the same Councillors as the Regulatory Committee; and
  - 4.1.3 Sub-committees to be established by the Licensing Committee on an ad hoc basis, comprising 3 Councillors drawn from the full Licensing Committee, to deal with matters under the Licensing Act 2003 and the Gambling Act 2005.

### **Composition**

- 4.2 The Chair and Vice-Chair of the Licensing and Regulatory Committees will be appointed by **Council** annually. The Vice-Chair will be from a different political group from the Chair of each respective Committee.

### **Quorum**

- 4.3 The quorum for each of the Licensing and Regulatory Committees will be 3 Councillors.
- 4.4 The quorum for each Licensing or Regulatory sub-committee will be 2 Councillors.

### **Substitutes**

- 4.5 There may not be substitutes appointed for the Licensing Committee. Each political group may appoint up to 4 substitute Councillors for the Regulatory Committee however those Councillors may not be appointed to a Regulatory Sub-Committee.

### **Competency**

- 4.6 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:
- 4.6.1 have undertaken appropriate training in the quasi-judicial nature of the Committee;
  - 4.6.2 have undertaken appropriate training in the relevant law and procedures which relate to the Committee's work; and

- 4.6.3 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**

- 4.10 Functions under both the Licensing Act 2003 and the Gambling Act 2005:
  - 4.10.0 To determine applications for premises licences where relevant representations have been made;
  - 4.10.1 To determine applications for provisional statements where relevant representations have been made;
  - 4.10.2 To determine valid applications for review of premises licences where relevant representations have been made;
  - 4.10.3 To determine whether a representation is irrelevant, frivolous or vexatious;
  - 4.10.4 To determine whether to object when the Council is a consultee and not the relevant authority considering an application;
  - 4.10.5 To decide on any other matter where it is necessary or desirable for Councillors to make that decision.
- 4.11 Functions under the Licensing Act 2003 alone:
  - 4.11.1 To determine applications for variations of premises licences where relevant representations have been made except in the case of minor variations;
  - 4.11.2 To determine applications to vary designated premises supervisors following police objections;
  - 4.11.3 To determine applications for transfer of premises licences following police objections;
  - 4.11.4 To consider police objections made to interim authority notices;
  - 4.11.5 To determine applications for club premises certificates where relevant representations have been made;
  - 4.11.6 To determine applications to vary club premises certificates where relevant representations have been made except in the case of minor variations;
  - 4.11.7 To determine valid applications for review of club premises certificates;
  - 4.11.8 To decide whether to give counter notices following police objections to temporary event notices;

- 4.11.9 To determine applications for grants of personal licences following police objections;
  - 4.11.10 To determine applications for renewals of personal licences following police objections;
  - 4.11.11 To determine applications for grants of personal licences with unspent convictions;
  - 4.11.12 To determine applications for grants of personal licences with convictions of offence during the application process;
  - 4.11.13 To decide on revocation of personal licences where convictions come to light after grant;
  - 4.11.14 To determine valid applications for review of premises licenses.
- 4.12 Functions under the Gambling Act 2005 alone:
- 4.12.1 To determine applications for variations of premises licences where relevant representations have been made;
  - 4.12.2 To determine applications for transfers of premises licences following representations by the Gambling Commission or others;
  - 4.12.3 To determine applications for the re-instatement of premises licences where relevant representations have been made;
  - 4.12.4 To decide whether to give counter notices following objections to temporary use notices;
  - 4.12.5 To determine applications for the grant or renewal of club gaming permits and club machine permits where valid objections have been received;
  - 4.12.6 To determine proposals to cancel club gaming permits and club machine permits where the licence holder requests a hearing;
  - 4.12.7 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;
  - 4.12.8 To determine applications for the grant or variation of licensed premises gaming machine permits for 2 or more machines;
  - 4.12.9 To determine applications for the grant of temporary event notices where relevant representations have been made;
  - 4.12.10 To determine applications for the grant of street trading licenses where relevant representations have been made;

4.12.11 To determine applications for the grant of pavement café licenses where relevant representations have been made;

4.12.12 To determine valid applications for review of premises licenses.

### **Terms of Reference of Licensing Sub-Committees**

4.13 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.

4.14 The sub-committees make decisions in 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. This includes making decisions as to:

4.14.1 whether or not to grant, suspend, revoke, refuse to renew, and/or 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.

4.15 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**

4.16 The Regulatory Committee and its sub-committees have all the functions which are stated not to be the responsibility of the Council's **Executive** 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) street trading, scrap metal dealing, special treatment premises, sex establishments, 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.

- 4.17 The Regulatory Committee may establish Sub-Committees of between three and five members of the Regulatory Committee, which shall consist of members of more than one political group but shall otherwise not be subject to political balance (*Council minute [xxx] 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)
- 4.18 The Regulatory Committee shall set fees and charges for all applications and licences within its remit, subject to any new fees being referred on to Executive.
- 4.19 The Regulatory Committee shall have responsibility for approving policies and procedures within its remit, subject to the rules in the *Budget and Policy Framework*.
- 4.20 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. This includes making decisions as to:
- 4.20.1 whether or not to suspend, and/or
  - 4.20.2 revoke, and/or
  - 4.20.3 refuse to renew, and/or
  - 4.20.4 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.
  - 4.20.5 To determine applications for grants of licence/permit/consent with unspent convictions;
  - 4.20.6 To determine applications for grants of licence/permit/consent with convictions of offence during the application process.
- 4.21 The Regulatory Committee has the power to make final decisions on behalf of the Council in relation to its functions in this part.

## 5 OVERVIEW AND SCRUTINY COMMITTEES

### Composition

- 5.1 The Council has established the following Overview and Scrutiny Committees, each comprising the specified number of Councillors, which may be altered to accommodate the overall political balance calculation:

<b>Name of Committee</b>	<b>Number of Councillors</b>
Business and Resources Overview and Scrutiny Committee	8
Health Overview and Scrutiny Committee	8
People Overview and Scrutiny Committee	8
Place Overview and Scrutiny Committee	8
LEP Overview and Scrutiny Committee	8

- 5.2 Members of the Committees must not be Executive Councillors.
- 5.3 The Chairs and Vice Chairs will be appointed by Council annually.
- 5.4 Either the Chair or the Vice Chair for each Committee must be a member of a minority political group, or an independent Councillor.
- 5.5 All remaining political group members, with the exception of Executive Councillors who cannot be members of overview and scrutiny committees, are named substitutes on the Overview and Scrutiny Committees.

### Quorum

- 5.6 The quorum for each Overview and Scrutiny Committee will be 3 Councillors.

### Terms of Reference of the Overview and Scrutiny Committees

- 5.7 The Overview and Scrutiny Committees:
- 5.7.1 will discharge the Council's functions under section 9F Local Government Act 2000;
- 5.7.2 will be responsible for the Council's scrutiny function including the preparation, implementation, monitoring and review of an annual 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. At the first meeting each year of the Overview and Scrutiny Committee, it will consider and agree the work programme.

- 5.7.3 will ensure, as part of the overall role, that the Chief Executive and Leadership Team discharge their responsibilities effectively and efficiently in relation to the overview and scrutiny function.
- 5.7.4 will scrutinise decisions of or actions taken by the Executive, and offer advice or make recommendations on the matter under scrutiny once the Committee has considered the issues
- 5.7.5 will scrutinise matters coming before Executive for decision and respond appropriately to the Executive on the matter once the Committee has considered the issues fully
- 5.7.6 will review or scrutinise decisions or actions taken in respect of any functions which are not the responsibility of the Executive and make reports or recommendations to the Council, or appropriate body of the Council
- 5.7.7 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.
- 5.7.8 may refer to the Council or appropriate committee/sub-committee any matter which, following scrutiny, the Committee determines should be brought to the attention of the Council or the committee or sub-committee and may, if requested, offer any views or advice to the Executive in relation to any matter referred to the committee for consideration
- 5.7.9 may undertake reviews with a cross-service approach and make reports and recommendations to the Council (or other appropriate Council body) or the Executive to assist in the review of policies and strategies
- 5.7.10 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
- 5.7.11 in performing its role, the Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations, including the Council's Community Panels.
- 5.7.12 may review the Council's response to its obligations in respect of the overall performance management regime and, where appropriate, to advise the Executive or appropriate body of the Council of its findings
- 5.7.13 may advise the Executive and Council, as appropriate, of the Committee's response to the formulation of the Council's Budget and performance management reports

- 5.7.14 may recommend that a decision made but not yet implemented, and taken in respect of a function which is the responsibility of the Executive be reconsidered by the Executive
  - 5.7.15 may scrutinise decisions after implementation to examine their effect and outcomes
  - 5.7.16 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
  - 5.7.17 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
  - 5.7.18 may give partner authorities notice in writing requiring them to have regard to the report or recommendations of the Committee in exercising their functions
  - 5.7.19 may invite expert witnesses, Councillors, officers and partners to answer questions
  - 5.7.20 will ensure, in conjunction with the Standards Committee, that the Council has in place appropriate mechanisms to protect organisational integrity, including the development of appropriate policies and guidance
  - 5.7.21 will consider and advise the Executive in respect of "call-in" notices under the Council's relevant procedures.
  - 5.7.22 will work with or appoint representatives to work with other local authorities and organisations to carry out joint scrutiny.
  - 5.7.23 may create Task and Finish Groups and set their Terms of Reference, to fulfil the Overview and Scrutiny requirements of the Council and the Annual Overview and Scrutiny Work Programme.
  - 5.7.24 will approve an Annual Overview and Scrutiny Work Programme, to be kept under review and updated as required.
  - 5.7.25 will produce an Annual Report to Council for the scrutiny process.
  - 5.7.26 will report to Council as required on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
  - 5.7.27 will discharge the Council's relevant functions in relation to the reduction of crime and disorder, health, and flood risk
- 5.8 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.

#### **5.8.1 Business and Resources Overview and Scrutiny Committee**

##### **(a) Composition**

No special membership required. The Committee will meet at least six times annually.

##### **(b) Terms of Reference**

Overview and Scrutiny of all the powers and duties of the Council relating to strategic planning, budget, transformation, corporate policy

#### **5.8.2 Health Overview and Scrutiny Committee**

##### **(a) Composition**

No special membership required. The Committee will meet at least six time annually .

##### **(B) Terms of Reference**

Overview and Scrutiny of all the powers and duties of the Council relating to health services and public health

#### **5.8.3 People Overview and Scrutiny Committee**

##### **(a) Composition**

The People Overview and Scrutiny Committee shall include in addition to 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 other than education matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

The Committee will meet at least six times annually.

##### **(b) Terms of Reference**

Overview and Scrutiny of all the powers and duties of the Council relating to children's social care, early years, education, SEND, youth justice, adult social care and public protection.

In addition, the People Overview and Scrutiny Committee will include in its terms of reference the Armed Forces Covenant and duty.

Note: The covenant is a means of ensuring that those who serve or have served in the armed forces, and their families, are treated fairly. The Armed Forces Act 2021 has created a legal obligation to have due regard to such persons when exercising relevant functions.

The Committee will also be responsible for scrutinising any similar policy initiatives.

#### **5.8.4 Place Overview and Scrutiny Committee**

##### **(a) Composition**

No special membership required. The Committee will meet at least six times annually.

##### **(B) Terms of Reference**

Overview and Scrutiny of all the powers and duties of the Council relating to environment, strategic infrastructure, highways and transport, housing and homelessness, economic development and planning, community engagement and community panels, community safety.

In addition, the Place Overview and Scrutiny Committee will include in its terms of reference crime, community safety, and fear of crime, including CONTEST, Prevent and Channel.

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.

The Committee will also be responsible for scrutinising any similar policy initiatives.

#### **5.8.5 LEP Overview and Scrutiny Committee**

##### **(a) Composition**

No special membership required. The Committee will meet at least twice annually.

##### **(B) Terms of Reference**

Scrutiny of the Local Enterprise Partnership, to include review and scrutiny of strategic decisions of the LEP, the LEP's progress and performance in delivery programmes under the management of the LEP and the delivery by the LEP of its strategies.

## **6 HEALTH AND WELLBEING BOARD**

- 6.1 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 s194 of the Health and Social Care Act 2012.
- 6.2 The Board will meet four times a year, or as business requires.

### **Composition**

- 6.3 Core membership of the Health and Wellbeing Board is prescribed in the Health and Social Care Act 2012 as:
- 6.3.1 At least one elected representative of Cumberland Council, nominated by the Leader;
  - 6.3.2 A representative from each Clinical Commissioning Group whose area falls within the Cumberland district;
  - 6.3.3 Director of Adult Social Care and Housing;
  - 6.3.4 Director of Children and Family Wellbeing;
  - 6.3.5 Director of Public Health and Communities;
  - 6.3.6 A representative from the local Healthwatch organisation;
  - 6.3.7 A representative of the NHS Commissioning Board (for the purpose of participating in the preparation of JSNAs and the JHWS or when any matter relating to the exercise or proposed exercise of the NHS Commissioning Board's commissioning functions in relation to Cumberland district is under consideration).
- 6.4 The Board may add members beyond those prescribed in the legislation where it considers that those other members may bring particular skills or perspectives or who have key statutory responsibilities which can support the Board's work.
- 6.5 In carrying out its role, the Board may:
- 6.5.1 Establish sub-committees and task groups.
  - 6.5.2 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.
  - 6.5.3 Invite appropriate representatives and bodies to give evidence.

### **Quorum**

- 6.6 Quorum for the Health and Wellbeing Board shall be one quarter of its full membership



## Role of the Board

6.7 The Health and Wellbeing Board has the following functions:

6.7.1 **Leadership** - To lead and direct the health and wellbeing system to ensure that partners improve services and make the best use of resources to deliver better outcomes for people. Specifically, the Board is responsible for:

- (a) providing a structure for strategic local planning and accountability of health and wellbeing related services
- (b) providing area-wide strategic leadership to public health, NHS, adults social care, children's social care and other relevant local authority commissioning - acting as a focal point for determining and agreeing health and wellbeing priorities and outcomes and resolving any related conflicts
- (c) encouraging integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under section 75 of the National Health Service Act 2006 (i.e. lead commissioning, pooled budgets and/or integrated provision) in connection with the provision of health and social care services
- (d) considering the draft strategic plans for healthcare, social care and public health to ensure that they deliver the Board's strategic priorities and outcomes and agreeing whether to recommend them to the relevant decision making body(ies)
- (e) ensuring a comprehensive engagement voice is developed as part of the implementation of HealthWatch.

6.7.2 **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 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 County
- (d) ensuring that the Integrated Care Boards, Local Integrated Care Partnerships, Place Based Partnerships, Local Authorities and NHS England demonstrate how the JSNA has driven decision making
- (e) preparing a Pharmaceutical Needs Assessment for the area at least every three years.

6.7.3 **Strategy** - To prepare, agree and publish a Joint Local Health and Wellbeing Strategy (JLHWS) for Cumberland 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 (including Integrated Care Partnership strategies), are aligned and support the delivery of this Strategy.

6.7.4 **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. Specifically, the Board is responsible for:

- (a) overseeing and reviewing performance in the delivery of the JLHWS
- (b) receive regular reports on the implementation of respective health and care system plans
- (c) monitoring health and wellbeing improvements and outcomes across the area and be accountable for the overall strategic performance management of agreed countywide health and wellbeing outcomes
- (d) receiving updates on areas where performance needs to be addressed
- (e) receiving assurance that improvements that are required as part of the regulatory regime are being delivered

6.7.5 **Accountability** - To be assured that the decisions of the Board and partners, and their subsequent outcomes, are clearly focused on improving the health and wellbeing of people in the area. Specifically, the Board is responsible for:

- (a) ensuring that appropriate structures and arrangements are in place to ensure the effective engagement and influence of local people and stakeholders
- (b) improving the transparency and accountability to local people of services, organisations and decision making connected to health and wellbeing
- (c) improving democratic accountability for health and wellbeing decision making
- (d) responding to the Joint Forward Plans prepared by Integrated Care Boards, including providing an opinion on whether the Joint Forward Plans take adequate account of the Joint Local Health and Wellbeing Strategy;
- (e) to receive and provide comment on the Integrated Care Boards' Joint Capital Resource Use Plans;
- (f) representing the area in relation to health and wellbeing issues across the sub regional and at national level.

6.7.6 **Partnership** - To ensure there is effective dialogue, engagement and joint working between county and local health and wellbeing structures and partnerships and with other key strategic partnerships and networks. Specifically, the Board is responsible for:

- (a) supporting and encouraging strong partnership working between local organisations in the area involved in health and wellbeing
- (b) actively engaging with the other key partnerships to ensure achievement of outcomes in all agreed areas and to extend the reach of the Joint Health and Wellbeing Strategy by ensuring alignment with other strategies and plans
- (c) receiving the Local Safeguarding Children's Board's and the Safeguarding Adult's Board Annual reports
- (d) encouraging wide engagement of partners throughout the Health and Wellbeing partnership structure by ensuring involvement in consultations, stakeholder events, good practice sharing, and task and finish groups
- (e) contributing to the Integrated Care Partnerships within the Cumberland district;
- (f) providing a forum for cross-system learning and support between jurisdictions and organisations.

6.7.7 **Integration** - To promote integration and partnership working between the NHS, social care, public health and other services. Specifically, the Board is responsible for:

- (a) supporting the development of integrated working with all partners in order to improve the outcome of local communities
- (b) supporting the delivery of joined up care between providers in order to improve health and wellbeing outcomes and reduce health inequalities
- (c) supporting the development of vibrant community places, linking local partners to address the wider determinants of health
- (d) enabling collaboration between commissioners, 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.

6.8 The Health and Wellbeing Board may have further functions delegated to it by the Council or Executive.

## **7 STAFFING COMMITTEE**

### **Composition**

- 7.1 The Staffing Committee will comprise **7** Councillors, which may be altered to accommodate the overall political balance calculation.
- 7.2 At least one of the Councillors appointed shall be an Executive Councillor and must be present at all meetings concerning the appointment or dismissal of a Chief Officer or Deputy-Chief Officer.
- 7.3 The Chair and Vice Chair will be appointed by Council annually.

### **Quorum**

- 7.4 The Staffing Committee quorum will be 3 Councillors.

### **Substitutes**

- 7.5 Each political group may appoint up to 4 substitute Councillors.

### **Competency**

- 7.6 All members of the Staffing Committee and all Councillors attending as substitutes must:
  - 7.6.1 have undertaken mandatory training in the relevant law and procedures which relate to the Committee's work; and
  - 7.6.2 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**

- 7.7 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.
- 7.8 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. 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.
- 7.9 To 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, in consultation with the Monitoring Officer or, if conflicted, the Deputy Monitoring Officer, the Chair can take that decision without recourse to the Committee. A decision to suspend must be reviewed by the Committee as soon as it is practicable to do so.

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

#### **Sub-Committees – Disciplinary/Grievance Panel and Appeals Panel**

- 7.11 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 3 Councillors, including at least one Executive Councillor, who have not been involved in the original relevant decision.
- 7.12 To establish sub-committees to determine matters relating to Officers' employment where there is a right of appeal to, or the right to request a review by, a committee or panel of Councillors.

## 8 INDEPENDENT PERSONS PANEL

### Composition

- 8.1 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.
- 8.2 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:
- 8.2.1 an Independent Person who has been appointed by the authority and who is a local government elector in the Council's area
  - 8.2.2 any other Independent Person who has been appointed by the authority
  - 8.2.3 an Independent Person who has been appointed by another authority or authorities.

### Competency

- 8.3 Independent Persons must have undertaken appropriate training.

### Functions of the Independent Persons Panel

- 8.4 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 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.
- 8.5 The advice of the Independent Persons Panel must be sought in accordance with the Employment Procedure Rules where the Staffing Committee propose to recommend the dismissal of a DSO.
- 8.6 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 Standards 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.
- 8.7 For the avoidance of doubt, the Panel may commission and have access to external legal and professional advice and may meet concurrently with an IDC hearing.

## **9 HARBOUR COMMITTEE**

### **Composition**

- 9.1 The Harbour Committee will comprise 7 Councillors, which may be altered to accommodate the overall political balance calculation in political balance, together with such number of co-opted members (non-voting) who are stakeholder representatives and/or individuals as the Committee may determine and who can provide valuable skills and experiences in support of the Committee's functions and will be recruited for a specified limited time.
- 9.2 The Chair and Vice Chair will be appointed by Council annually.

### **Quorum**

- 9.3 The Harbour Committee quorum shall be 3 Councillors. Each political group may appoint up to 4 substitute members.

### **Functions of the Harbour Committee**

- 9.4 The Harbour Committee is established by the Council as a Committee of the Council (under Section 102 of the Local Government Act 1972) to carry out the Council's functions in respect of the Port of Workington under the Harbours Act 1964 and the Workington Harbour Act 1974 (as amended).
- 9.5 The Council, as Statutory Harbour Authority (SHA) for the Port of Workington and as Competent Harbour Authority, operates the Port and Pilotage under the powers granted to it by the Workington Harbour Acts and Orders 1957 to 1999 and the Pilotage Act of 1987, and is a SHA under the Harbours Docks and Piers Clauses 1847 and subsequent Acts.
- 9.6 The Council is responsible for all areas within the Harbour limits prescribed in Section 12 (Harbour limits) of the Workington Harbour and Dock (Transfer) Act 1957 and the Workington Harbour Revision Order 1999.
- 9.7 The Harbour Committee shall:
- 9.7.1 Ensure the Council discharges all its statutory duties and functions as a Statutory Harbour Authority (SHA);
  - 9.7.2 Receive quarterly budget monitoring reports to ensure active monitoring and decision making in relation to the financial position and the Harbour reserve;
  - 9.7.3 Seek to ensure funds are kept above an appropriate minimum contingency levels;
  - 9.7.4 Ensure the Harbour remains self-financing;
  - 9.7.5 To be actively involved in developing, approving and monitoring the Harbour business plan;
  - 9.7.6 Address any other issues relating to the performance of the Harbour;

9.7.7 Consider any other matters referred to the Committee by the Duty Holder.



## **10 CORPORATE PARENTING BOARD**

### **Summary**

- 10.1 The Corporate Parenting Board is responsible for the welfare, wellbeing and promoting the best interests of all children and young people who are looked after by, and care leavers of, Cumberland Council.
- 10.2 The Board will seek and consider the voice of children, care leavers and carers and ensure they are involved in co-production of the work of the board.
- 10.3 The Board will seek to ensure that the Council treats Care Experience as if it were a protected characteristic.
- 10.4 The Board will seek to ensure the whole council and relevant partner agencies commit to excellent standards of corporate parenting with high aspiration and the right for strong and enduring relationships for all cared for children and care leavers at its heart.

### **Composition**

- 10.5 The Executive Councillor for Children and Family Support will chair this Board. The vice-chair will be appointed by the Board annually at its first meeting.
- 10.6 The Corporate Parenting Board will comprise at least 6 Councillors of the Council or such greater number as may be determined by the Executive Councillor for Children and Family Support. Political Proportionality does not apply but the membership must include at least one member of each main group.
- 10.7 The Board may invite to attend any of its meetings and/or co-opt as members of the Board:
  - 10.7.1. Representatives from any Council department which it considers can usefully contribute to its work or any statutory or non-statutory partner organisation
  - 10.7.2. Representatives of young people or carers of looked after children

### **Quorum**

- 10.8 The quorum for the Board is the Executive Councillor for Children and Family Support, together with at least 2 other members.

### **Terms of Reference of the Corporate Parenting Board**

- 10.9 The Corporate Parenting Board will:
  - 10.9.1 Consider and set the overarching direction and priorities within the Council in relation to children and young people who are looked after and care leavers;
  - 10.9.2 Oversee and monitor the progress in delivering the policies, strategies and development plans in this area of the Council and, where

appropriate, partner agencies plans in respect of impact for looked after children and care leavers;

- 10.9.3 Monitor and challenge performance and impact for children, using a range of performance data and quality assurance information.
- 10.9.4 Seek assurance that delivery is achieving desired outcomes and impact in respect of children and young people who are looked after and care leavers. This is to include arrangements to ensure placements are appropriate to children's needs, how foster families are supported, arrangements for leaving care, performance in respect of adoption, and achievement of timescales in relation to the planning of care.
- 10.9.5 Review such policies, strategies and plans of the Council as the Board considers appropriate, to assess whether they make explicit their contribution to improving outcomes for children and young people who are looked after and care leavers, and to make recommendations to Councillors and officers as to how such plans could better meet this requirement.
- 10.9.6 Monitor the engagement and participation across the whole council in respect of the implementation of the Council's Pledge to Young People in Care, our children's 'Promise', the Local Offer for Care leavers and the Council resolution 29<sup>th</sup> July 2022 to treat care experience as a protected characteristic.
- 10.9.7 Ensure the participation of children and young people via the Children in Care Council, Care Leaver in Cumbria group and via the Care Leaver Ambassadors. Make proposals to the Executive Councillor responsible for Children's Services or to Executive for its development.
- 10.9.8 To consider the outcome of regulatory visits and inspection reports on provision for children in care and care leavers and to receive regular reports on;
  - (a) The work of the adoption and fostering services;
  - (b) The education of children in care;
  - (c) Provision for children and young people leaving care, housing and education, employment and training for care leavers; and
  - (d) Work with those in the secure estate.
- 10.9.9 Seek assurances over the placement of children and young people out of the Council's area, and the placement of children and young people from out of area into the Council's area.
- 10.9.10 Make such representations as the Board considers appropriate to the Executive and the Director of Children's Services.
- 10.9.11 Set high expectations for, and promote the best interests of, all children and young people who are or have been looked after and care leavers. This includes ensuring services are sensitive to the culture, ethnic origin and identity of children and young people who are looked after and care leavers, and addressing any issues related to discrimination or unfair treatment.

- 10.9.12 Promote the role of all Councillors as corporate parents, including identifying and meeting the development needs of Councillors, to enable them to understand and carry out their corporate parenting role.
- 10.9.13 Nominate one of its members to sit on the Governance Board of the Virtual School for looked after children.
- 10.9.14 Make a written report, at least annually, to Executive, Council and Scrutiny, on the Board's activities.
- 10.10 The Board may make recommendations to a Scrutiny Committee for scrutiny of any matter within its terms of reference. Acceptance of such recommendation shall be at the discretion of the Scrutiny Chair.
- 10.11 The Board may also refer matters relating to the health and wider well-being of children looked after and care leavers to the Health and Wellbeing Board and the Children's Trust Board; and may consider the strategies and priorities of those Boards in so far as they affect the lives of children looked after and care leavers.
- 10.12 The Board may establish one or more sub-groups to carry out detailed work in respect of any aspect of its terms of reference and report to the Board.
- 10.13 The Board may invite participation in a sub-group from any of the persons or representatives of organisations that are eligible to be invited to or co-opted on to the Board.

## **11 JOINT ARRANGEMENTS**

- 11.1 The Council or the Leader may, in order to promote the economic, social or environmental well-being of its area:
  - 11.1.1 Enter into arrangements or agreements with any person or body;
  - 11.1.2 Cooperate with, or facilitate or coordinate the activities of, any person or body; and
  - 11.1.3 Exercise on behalf of that person or body any functions of that person or body.
- 11.2 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.
- 11.3 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.
- 11.4 Joint arrangements may be established to discharge a number of functions on behalf of a Council, some of which are the responsibility of the executive 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.
- 11.5 Except as set out below, the Leader may only appoint Executive Councillors to a joint committee and those Councillors need not reflect the political composition of the Council as a whole.
- 11.6 The Leader may appoint Councillors to a joint committee who are not members of the Executive in the following circumstances:
  - 11.6.1 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;
  - 11.6.2 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;
  - 11.6.3 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**

- 11.7 The **Access to Information Rules** in this Constitution apply.
- 11.8 If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.
- 11.9 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**

- 11.10 The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another authority.
- 11.11 The Leader may delegate executive functions to another local authority or the executive of another authority in certain circumstances.
- 11.12 The decision whether or not to accept such a delegation from another local authority shall be reserved to Council.

## **Contracting Out**

- 11.13 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.

## **12 JOINT COMMITTEES**

The Council has the following Joint Committees

### **Shared (Hosted) Functions and Services**

#### **12.1 Joint Executive Committee**

##### **12.1.1 Scope**

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

##### **12.1.2 Joint Executive Committee - Composition**

- (a) Each Authority shall appoint **4** Executive Councillors as its nominated members of the Joint Executive Committee. The Councillors 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 Councillors) subject to notification being given to the Monitoring Officer via the relevant Democratic Services team before the start of the meeting. The Councillor 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 their Authority's Executive but a Councillor shall cease to be a member of the Joint Executive Committee if they cease to be a member of the 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) Cumberland Council shall host the Joint Executive Committee for the first six months, whereupon Westmorland and Furness Council shall host for the following six months. Hosting shall continue in this alternate pattern thereafter.
- (g) Each Authority shall appoint at its annual meeting one of its nominated members as Co-Chair.

- (h) The member appointed as Co-Chair by the relevant Host Authority shall act as Chair until the first meeting taking place after the elapse of **six 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 Co-Chair's term of office as Chair, the member appointed by the other Authority shall take over as Chair for a further period of six months. The same procedure shall be followed for the appointment of the Co-Chair in subsequent years.
- (i) The member appointed as Co-Chair for the non-hosting Authority shall act as Vice-Chair until the first meeting taking place after the elapse of **six 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 Co-Chair's term of office as Vice-Chair, the member appointed by the other Authority shall take over as Vice-Chair for a further period of six months. The same procedure shall be followed in subsequent years.
- (j) 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.
- (k) Meetings will be governed by the Executive 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.
- (l) 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.
- (m) 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.
- (n) 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.
- (o) The relevant Democratic Services team 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.
- (p) A meeting of the Joint Executive Committee will require a quorum of at least **2** members from each Authority.

### 12.1.3 **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.

## 12.2 **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.

### 12.2.1 Joint Overview and Scrutiny Committee - Composition

- (a) Each Authority shall appoint **6** Councillors (being non-executive councillors) on a politically proportionate basis as its nominated members of the Joint Overview and Scrutiny Committee. The Councillors appointed will have full voting rights. The Committee may co-opt non-voting members to assist it in its functions.
- (b) The political groups of each Authority may nominate up to 4 substitute members (who shall also be non-executive councillors) who 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 **2** members from each Authority.
- (g) Each Authority shall appoint at its annual meeting one of its nominated members as Co-Chair of the Joint Overview and Scrutiny Committee.
- (h) The Co-Chair from the Authority which is not hosting the Joint Executive Committee shall chair the Joint Overview and Scrutiny 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.
- (i) The member appointed as Co-Chair for the non-hosting Authority shall act as Vice-Chair of the Joint Overview and Scrutiny Committee.
- (j) 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.
- (k) The Joint Overview and Scrutiny Committee shall normally meet once every two months (bi-monthly) unless otherwise determined by the Joint Overview and Scrutiny.
- (l) 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.
- (m) 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.
- (n) The **Call-In** mechanism will be affected by a request of any 5 members of the Committee 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.

#### **12.2.2 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

#### **12.2.3 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.

### **12.3 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 (**the Commissioner**).

#### 12.3.1. 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.

#### 12.3.2. 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) timOnce 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.

#### 12.3.3. 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.



#### 12.3.4. 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 COMMUNITY PANELS

- 13.1 The Community Panels 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 Executive and also by the Council.
- 13.2 Where a Community Panel exercises powers granted to it by the Executive or Council it must do so within the parameters of the policies set by the Council and Executive and as set out in the terms of reference, including the ability to consider and report to Executive and Council on any matter affecting their area. Community Panels operate within Council policy and decisions must be consistent with the Budget and Policy framework and service specific policies.
- 13.3 Each Community Panel are comprised of all members of the Council representing those wards included within each Community Panel boundary, as follows:

<b>Panel</b>	<b>Wards</b>
1	Belle Vue, Castle, Denton Holme, Morton, Yewdale
2	Botcherby, Currock, Harraby North, Harraby South, Upperby
3	Brampton, Houghton and Irthington, Wetheral, Belah, Corby and Hayton, Longtown, Stanwix Urban
4	Solway Coast, Thursby, Aspatria, Wigton, Dalston and Burgh
5	Bothel and Wharrels, Cockermouth North, Cockermouth South, Dearham and Broughton, Keswick, Maryport North, Maryport South
6	Moss Bay and Moorclose, Harrington, Seaton, St Michaels, St. Johns and Great Clifton

7	Bransty, Egremont North and St Bees, Hillcrest and Hensingham, Howgate, Kells and Sandwith, Mirehouse
8	Gosforth, Millom Without, Cleator Moor East and Frizington, Cleator Moor West, Egremont, Millom

- 13.4 Each Community Panel shall at its first meeting appoint one of its number to be chair and another to be vice-chair for the next 12 months
- 13.5 A Community Panel will meet as a committee of the whole number of its members, subject to the quorum of one quarter of its members or 2 members (whichever is the lower), and in accordance with the Access to Information Rules, in order to make a lawful decision. A Community Panel is not, therefore, permitted to establish any form of sub-committee for decision making nor delegate decision making to any of its number and no substitute members may be appointed.
- 13.6 A Community Panel may invite or co-opt three representatives of the community and voluntary sector as it determines who shall be able to participate in discussion and debate but who shall not be permitted to vote or take part in decision making.
- 13.7 Community Panels may appoint non-decision making sub-committees or working groups which will be provided with administrative support at the discretion of the Head of Paid Service.
- 13.8 An Executive Councillor may serve on a Community Panel if otherwise eligible to do so as a Councillor. The relevant Portfolio Holder may be invited to attend a meeting of any Community Panel depending on the subject matter in question.
- 13.9 Community Panels will meet at least 8 times annually.

### **Terms of Reference**

- 13.10 The purposes of the Community Panels are:
- 13.10.1 To actively encourage local residents to become involved in decision-making on matters which affect and interest them.
- 13.10.2 To lead and enable effective implementation of the Neighbourhood Investment Plan.
- 13.10.3 To monitor the quality and effectiveness of services delivered by the Council and other main providers in the local area.
- 13.10.4 To lead on development of a Neighbourhood Investment Plan, which includes all main priorities for improvement of the Area, for approval by the Executive.
- 13.11 In pursuit of these objectives, the Community Panel may:

- 13.11.1 Consult, engage and involve local people and organisations in development and delivery of the Neighbourhood Investment Plan.
  - 13.11.2 Consult, engage and involve partner agencies in development and delivery of the Neighbourhood Investment Plan.
  - 13.11.3 Actively review the activities of other agencies within its area with a view to ensuring that services, initiatives and their manner of delivery meet local requirements as fully as possible.
  - 13.11.4 Constructively challenge service providers to improve the standards of service and the levels of public satisfaction and trust with them.
  - 13.11.5 Identify priorities for allocation of budgets delegated to the Community Panel.
  - 13.11.6 Commission activity to improve local quality of life and public satisfaction in its area.
  - 13.11.7 Promote and publicise initiatives taken to improve local quality of life and public satisfaction and to increase participation in decision making.
  - 13.11.8 Request and consider reports in support of the Community Panel's work.
- 13.12 The Community Panel will also produce an Annual Report which will review and evaluate the degree to which it was successful in achieving its objectives and effective in promoting community leadership.

### **Delegated powers**

- 13.13 The Council and the Executive may delegate powers and functions to the Community Panels which will be recorded here.

### **Conflicts of Interest**

- 13.14 If an Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of the Community Panel for which an Overview and Scrutiny Committee Council is a member, then that Councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Standards and Governance Committee.
- 13.15 Where the Overview and Scrutiny Committee is reviewing policy generally, the Community Panel member must declare their interest before the relevant agenda item is reached, but need not withdraw.

### **Access to Information**

- 13.16 Community Panels will comply with the **Access to Information Procedure Rules**. Agendas and notices for meetings which deal with both functions of the Executive and functions which are not the responsibility of the Executive will state clearly which items are which.



## **Part 2 – Section 6: Officer Scheme of Delegation**

This part of the Constitution sets out the ways in which the Chief 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**

Chief Officers are able to further delegate responsibility for decision making to other officers who report to them. The idea is that the work can be done at the most efficient level possible but, at all times, the Council, the Leader and the Chief Officers remain responsible.

## **1 INTRODUCTION TO THE OFFICER SCHEME OF 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**, the **Leader** and the **Executive** have delegated to officers all of the powers that they need to perform their roles. This scheme describes powers and functions reserved to particular statutory or proper officers as well as the more general authority as granted by Council and the Executive to be able to implement decisions and to undertake and operate the Council's functions. Additional authority to act, or reservations to any authority granted, may be set out in a decision of the Council, a Committee or Executive or through a separate Leader's or Committee's Scheme of Delegation
- 1.4 Certain officers have specific legal duties and powers 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” shall include the following officers:
  - 1.7.1 The Chief Executive and Head of Paid Service
  - 1.7.2 The Monitoring Officer
  - 1.7.3 The Section 151 Officer (Chief Finance Officer)
  - 1.7.4 The Assistant Chief Executive – Strategy, Policy and Performance
  - 1.7.5 The Director of Adult Social Care and Housing

- 1.7.4 The Director of Business Transformation and Change
  - 1.7.5 The Director of Children and Family Wellbeing
  - 1.7.6 The Director of Place, Sustainable Growth and Transport
  - 1.7.7 The Director of Public Health and Communities
  - 1.7.8 The Director of Resources
- 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 under this scheme by a decision of the **Council**, a Committee or Sub-Committee.
- 1.9 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 Delegation (which sets out all the standing delegations given to specific officers in defined areas of the Council's service areas). A **full list** of the Local Schemes of Delegation is available on the Council's website and you can look at any of the schemes in detail.
- 1.10 All Local Schemes of Delegation (and any changes to them) must be agreed by the relevant Chief Officer and the Monitoring Officer.
- 1.11 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.
- 1.12 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.
- 1.13 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 Officer** or the **Monitoring Officer**.
- 1.14 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.

- 1.15 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.
- 1.16 Any delegation must be exercised:
- 1.16.1 In accordance with the **Budget and Policy Framework**, all the Council's Procedure Rules, the Pay Policy Statement approved annually and the Officer Code of Conduct;
  - 1.16.2 In accordance with the decision-making requirements set out in the Constitution, including requirements for decision-records and access to information;
  - 1.16.3 In accordance with any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required; and
  - 1.16.4 Having identified and managed appropriate strategic and operational risks within the officer's area of responsibility
- 1.17 Officer decisions must be evidenced in writing using the agreed standard form, dated and signed by the officer exercising the delegated authority.
- 1.18 An **officer**, in exercising delegated powers may consult the relevant Committee Chair or executive Councillor if they consider 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.
- 1.19 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.
- 1.20 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.
- 1.21 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 next meeting of the appropriate Committee;
- 2.2.2 shall take account of advice of the **Monitoring Officer** and the **Chief Finance 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; and
- 2.2.4 is in line with the Access to Information Procedure Rules and Budget and Policy Framework Procedure Rules.

### **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 executive, 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, including approval of operational procedures 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 in the absence of the Assistant Chief Executive, 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 Leader or 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 Financial 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 vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture, appliances, uniforms and (in consultation with the Director of Resources) land and premises 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.

### **Emergencies and Continuity**

- 2.22 If the Council needs to act urgently in any matter including, without limitation, complying with the Emergency Response Plan and other council response plans or taking any action under new legislation of powers, and the Chief Executive is either unwell, unobtainable or where there is no Chief Executive in post, then a Chief Officer may act in the place of the Chief Executive and may delegate responsibility to another nominated Officer where it is considered appropriate.

### 3 DELEGATIONS TO CHIEF EXECUTIVE AND CHIEF OFFICERS

#### Statutory Chief Officers

##### 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 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 may appoint one or more deputies, each of whom has power to exercise all the powers and duties of the Chief Executive during their absence, incapacity or conflict from acting or during vacancy of the role.
- 3.5 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:
  - 3.5.1 To be the Council's principal officer representative and to promote its good image and reputation
  - 3.5.2 To lead and direct the strategic management of the Council
  - 3.5.3 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 **Proper Officer Register** showing who is appointed to act as the Proper Officer for all Council service areas and functions
  - 3.5.4 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
  - 3.5.5 To discharge emergency planning and civil protection functions (together with the Director of Public Health and

Communities in the case of emergency presenting a risk to public health);

- 3.5.6 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
- 3.5.7 To undertake the communications, marketing and media functions of the Council with regard to policy and strategic direction.
- 3.5.8 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.
- 3.5.9 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 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;
- 3.5.10 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.

### **Monitoring Officer**

- 3.6 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:
  - 3.6.1 the lawfulness and fairness of the decision making of the Council
  - 3.6.2 the Council's compliance with its legal responsibilities and requirements, and

- 3.6.3 matters relating to the conduct of Councillors (including Parish Councillors).
- 3.7 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.
- 3.8 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the Chief Finance 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.
- 3.9 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.
- 3.10 The Monitoring Officer has power to exercise any function of the Monitoring Officer contained in any other Part of this Constitution.
- 3.11 The Monitoring Officer shall have the following delegated powers and responsibilities:
  - 3.11.1 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.
  - 3.11.2 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).
  - 3.11.3 To institute legal proceedings for any offences within the Council's area.
  - 3.11.4 To lodge objections to any proposal affecting the Council's interests.
  - 3.11.5 To determine applications for the display of the crest or logo of the Council.
  - 3.11.6 To approve the Council's response to any investigation carried out by the Local Government and Social Care Ombudsman.
  - 3.11.7 To approve the Council's response to any request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2003.
  - 3.11.8 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.

- 3.11.9 To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer.
- 3.11.10 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.
- 3.11.11 To make Orders for the Temporary Closure of Highways and Regulation of Traffic.
- 3.11.12 To attest the affixing of the Council's seal to all documents approved for sealing.
- 3.11.13 To authorise appropriate Officers to administer formal cautions in respect of criminal offences.
- 3.11.14 To determine whether a particular claim for payment under the Councillors Allowances Scheme is appropriate.
- 3.11.15 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.
- 3.11.16 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 Council's bullying and harassment procedure against the Chief Executive or Chief Finance Officer.
- 3.11.20 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.
- 3.11.21 To grant dispensations to Councillors or Coopted members 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.

3.11.22 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;
- (b) Member Support;
- (c) Election Services;
- (d) Coroners Services;
- (e) Internal Audit; and
- (f) any other services allocated or re-allocated to the Monitoring Officer by the Chief Executive.

### **Chief Finance Officer (s.151 Officer)**

3.12 The Chief Finance Officer is appointed in accordance with section 151 of the Local Government Act 1972 as:

3.12.1 The financial adviser to the Council, Committees and Officers

3.12.2 The Authority's 'responsible financial officer', and is

3.12.3 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.

3.13 "Proper Administration" is not defined but shall also include responsibilities for compliance with the statutory requirements for accounting and internal audit.

3.14 The Chief Finance Officer may appoint one or more sufficiently qualified deputies, each of whom has power to exercise all the powers

and duties of the section 151 Officer during their absence, incapacity or conflict from acting or during vacancy of the role.

- 3.15 The Chief Finance Officer shall have the following delegated powers and responsibilities:
- 3.15.1 To carry out the functions and responsibilities which are detailed in the Finance Procedure Rules;
  - 3.15.2 To strengthen the strategic and operational financial leadership of the Council through medium term financial planning and budgetary control overseeing the Council's annual budget;
  - 3.15.3 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;
  - 3.15.4 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;
  - 3.15.5 To lead the revenue and benefits service;
  - 3.15.6 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;
  - 3.15.7 To take all necessary action in respect of the Council's role in relation to the administration and operation of the Pension Fund and to represent the needs of Cumberland to Westmorland and Furness as the "Pension Administering Authority";
  - 3.15.8 To adopt the Council's annual Council Tax Base
  - 3.15.9 To make recommendations to Council on Council Tax requirements, on 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;
  - 3.15.10 To act as the Council's shareholder representative in respect of Cumbria Holdings.

- 3.15.11 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 areas:
- (a) Procurement;
  - (b) Insurance;
  - (c) Pensions;
  - (d) Accounting and Financial Planning;
  - (e) Revenues and Benefits; and
  - (f) Financial services (including treasury management and banking);
  - (g) performance;
  - (h) the financing of the Capital Programme;
  - (i) Any other services allocated to the Chief Finance Officer by the Chief Executive

### **Director of Public Health and Communities**

- 3.16 The Director of Public Health and Communities 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).
- 3.17 The Director of Public Health and Communities 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 areas:
- 3.17.1 Public health intelligence;
  - 3.17.2 Health improvement and the Wider Determinants of Health;
  - 3.17.3 Public health protection;
  - 3.17.4 Public Health commissioning, contract management and quality assurance;

- 3.17.5 Regulatory Services including Environmental Health and Protection, Trading Standards, Licensing and Private Sector Housing;
- 3.17.6 The statutory functions of the Director of Public Health (together with the Chief Executive in the case of planning for and responding to emergencies that present a risk to public health); and
- 3.17.7 Any other services allocated or reallocated to the Director of Public Health by the Chief Executive.

### **Director of Adult Social Care and Housing**

- 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 areas:
  - 3.19.1 All adults services including but not limited to:
    - (a) Adult Social Care Services – Community Teams;
    - (b) Adult Social Care – Hospital Teams;
    - (c) Mental Health and Learning Disability Services;
    - (d) Adult Safeguarding;
    - (e) Adult Social Care commissioning, contract management and quality assurance;
    - (f) Adult Social Care Business Support and Finance;
    - (g) The provision of residential and day services to children and adults including those provided by Cumbria Care (“Provider Services”);
    - (h) Integration of health and social care services; and
    - (i) Any other services allocated to the Director by the Chief Executive

## **Director of Children and Family Wellbeing**

- 3.20 The Director of Children and Family Wellbeing 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.
- 3.21 The Director of Children and Family Wellbeing 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:
- 3.21.1 Children and young people's services including Looked After Children;
  - 3.21.2 Education and skills;
  - 3.21.3 SEND;
  - 3.21.4 the provision of residential and day services to children; and
  - 3.21.5 any other services allocated to the Director by the Chief Executive.
- 3.22 The Director of Children and Family Wellbeing has specific powers to:
- 3.22.1 in consultation with the relevant Executive Councillor 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; and
  - 3.22.2 nominate local authority governors to maintained schools in consultation with the relevant local Councillor or the Chair and Vice Chair of the relevant Community Panel.

## **Non Statutory Chief Officers**

### **Assistant Chief Executive**

- 3.23 The Assistant Chief Executive 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 areas:
- 3.23.1 Strategic and Corporate Policy;

- 3.23.2 Performance and data/ intelligence;
- 3.23.3 Communications; and
- 3.23.4 PR and Media Relations.

### **Director of Business Transformation and Change**

3.24 The Director of Business Transformation and Change 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 areas:

- 3.24.1 Business Partnering;
- 3.24.2 Commissioning and Procurement;
- 3.24.3 Human Relations and Organisational Development;
- 3.24.4 ICT;
- 3.24.5 Programme Management Office; and
- 3.24.6 Any other services allocated to the Director by the Chief Executive

### **Director of Place Sustainable Growth and Transport**

3.25 The Director of Place Sustainable Growth and Transport 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:

- 3.25.1 Inward Investment and Growth;
- 3.25.2 Climate Change, Net Zero and Biodiversity and the Natural Environment;
- 3.25.3 Sustainable Growth;
- 3.25.4 Planning and Building Control;
- 3.25.5 Transport and Highways;
- 3.25.6 Community Infrastructure;

- 3.25.7 Waste and Street Scene; and
- 3.25.8 Any other services allocated or reallocated to the Director of Place, Sustainable Growth and Transport by the Chief Executive

### **Director of Resources**

- 3.26 The Director of Resources 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 or Statutory Chief Officers and undertaking efficient management of the services, contracts and staff for which he/she is responsible in the following functional areas:
  - 3.26.1. Financial Services including responsibility for management of the Chief Financial Officer (S151 Officer);
  - 3.26.2. Legal and Democratic services, Elections, Member Support, Coroner's Services, Registrars and Internal audit and risk management including responsibility for management of the Monitoring Officer.
  - 3.26.3. Assets and Fleet including management of housing and school assets;
  - 3.26.4. All aspects of Customer Service Delivery including community hubs and prevention, front door and service integration;
  - 3.26.5. Corporate Complaints and Business Administration; and
  - 3.26.6. Any other services allocated or reallocated to the Director of Resources by the Chief Executive
- 3.27. The Director of Resources is authorised to act as the Port of Workington duty holder.

## 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:
- 4.6.1 such designation is given by the Council to any other officer, or
- 4.6.2 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.
- 4.7 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.
- 4.8 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.
- 4.9 Substitutes are identified to act where the **Proper Officer** is absent or otherwise unable to act.
- 4.10 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	
Representation of the People Act 1983 Section 8 Electoral Registration Officer	Chief Executive	Monitoring Officer Electoral and Democratic Services Manager Senior Specialist – Elections



Statutory Requirement	Allocated to	Substitute
		Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint.
Representation of the People Act 1983 Section 28 Acting Returning Officer (Parliamentary)	Chief Executive	Monitoring Officer Electoral and Democratic Services Manager Senior Specialist – Elections Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint
Representation of the People Act 1983 Section 35 Returning Officer (Local Elections)	Chief Executive	Monitoring Officer Electoral and Democratic Services Manager Senior Specialist – Elections Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint
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 Care and Housing	
Local Government Act 1972	Chief Finance Officer	

<b>Statutory Requirement</b>	<b>Allocated to</b>	<b>Substitute</b>
Section 151 Chief Finance Officer		
Local Government Act 2000 Section 9FB Scrutiny Officer	Assistant Chief Executive	
Local Government and Housing Act 1989 Section 5 Monitoring Officer	Monitoring Officer	
Children Act 2004 Section 18 Director of Children's Services	Director of Children and Family Wellbeing	
Children Act 1989 Section 22 and 23ZZA Virtual School Headteacher	Director of Children and Family Wellbeing	
National Health Service Act 2006 Section 73A	Director of Public Health and Communities	

### **Proper Officers**

<b>Function</b>	<b>Legislative Provision</b>	<b>Proper Officer</b>	<b>Deputy</b>
Reference in legislation to the "Clerk"	Any legislation before October 1972	Chief Executive	Monitoring Officer
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	Monitoring Officer
Witness and receipt of declaration of acceptance of office	Local Government Act 1972 Section 83	Chief Executive	Monitoring Officer
Receipt of notice of resignation by councillor	Local Government Act 1972 Section 84	Chief Executive	Monitoring Officer

<b>Function</b>	<b>Legislative Provision</b>	<b>Proper Officer</b>	<b>Deputy</b>
Declare any vacancy in office	Local Government Act 1972 Section 86	Chief Executive	Monitoring Officer
Convening a meeting of Council to fill casual vacancy in office of Chair	Local Government Act 1972 Section 88(2)	Chief Executive	Monitoring Officer
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	Monitoring Officer
Exclusion of reports, etc. from inspection	Local Government Act 1972 Section 100B Schedule 12A	Monitoring Officer	
Supply of documents to the press	Local Government Act 1972 Section 100B(7)(c)	Monitoring Officer	
Written Summary where minutes would disclose exempt information	Local Government Act 1972 Section 100C	Monitoring Officer	
Compilation of list of background papers	Local Government Act 1972 Section 100D	Monitoring Officer	
Exclusion from production to Councillors of documents disclosing exempt information	Local Government Act 1972 Section 100F	Monitoring Officer	
Receipt of money due from officers	Local Government Act 1972 Section 115(2)	Chief Finance Officer	
Declarations and certificates with regard to securities	Local Government Act 1972 Section 146(1)(a)	Chief Finance Officer	
The Officer having responsibility for the proper administration of the financial affairs of the Council.	Local Government Act 1972 Section 151 Also Local Government Finance Act 1988 sections 112-116 and any reference in legislation before October	Chief Finance Officer	

<b>Function</b>	<b>Legislative Provision</b>	<b>Proper Officer</b>	<b>Deputy</b>
	1972 to the "Treasurer" of a local authority		
Functions with respect to ordnance survey	Local Government Act 1972 Section 191	Director of Place Sustainable Growth and Transport	
Charity functions	Local Government Act 1972 Section 210	Monitoring Officer	
Authorise Officers to appear in legal proceedings	Local Government Act 1972 Section 223 (Also Section 60 County Courts Act 1984)	Monitoring Officer	
Deposit of documents pursuant to the Standing Orders of either Houses of Parliament or to any enactments/instruments and any action as may be directed	Local Government Act 1972 Section 225(1)	Monitoring Officer	
Certification of photographic copies of documents	Local Government Act 1972 Section 229(5)	Monitoring Officer	
Authentication of documents	Local Government Act 1972 Section 234(1)	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	
Certification of byelaws	Local Government Act 1972 Section 238	Monitoring Officer	
Keeping of roll of Freemen	Local Government Act 1972 Section 248	Monitoring Officer	
Signature of summons to council meetings	Local Government Act 1972 Section 99 & Schedule 12 Para.4(1A)(b)	Monitoring Officer	
Officer to whom Councillors shall give notice of address desiring Council summonses	Local Government Act 1972 Schedule 12 Para.4(3)	Monitoring Officer	



<b>Function</b>	<b>Legislative Provision</b>	<b>Proper Officer</b>	<b>Deputy</b>
	(c) any other matter		
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 Place Sustainable Growth and Transport	
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	Monitoring Officer	
Officer having responsibility for the storage and charge of cemetery records	Local Authorities' Cemeteries Order 1977 Article 12	Director of Place, Sustainable Growth and Transport	
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 Place, Sustainable Growth and Transport	
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	Head of Paid Service	Monitoring Officer Electoral and Democratic Services Manager Senior Specialist – Elections

Function	Legislative Provision	Proper Officer	Deputy
			Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint
Acting Returning Officer for Parliamentary elections	Representation of the People Act 1983 Section 28	Head of Paid Service	Monitoring Officer Electoral and Democratic Services Manager Senior Specialist – Elections Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint
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	Head of Paid Service	Monitoring Officer Electoral and Democratic Services Manager Senior Specialist – Elections

<b>Function</b>	<b>Legislative Provision</b>	<b>Proper Officer</b>	<b>Deputy</b>
			Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint
Receipt of notice of appointment of election agent	Representation of the People Act 1983 Section 67	Head of Paid Service	Monitoring Officer Electoral and Democratic Services Manager Senior Specialist – Elections Electoral Services Officer Any other suitably qualified and experienced officer who the Chief Executive may appoint
Provision of accommodation for election court	Representation of the People Act 1983 Section 131	Head of Paid Service	Monitoring Officer
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	
Publication of reports of Local Commissioners	Local Government Act 1974 Part 3 Section 30	Monitoring Officer	



Function	Legislative Provision	Proper Officer	Deputy
<p>(b) Various purposes with regard to drainage, water supply, sanitary accommodation.</p> <p>(c) Purposes relating to building control other than those comprised in (a) above</p> <p>(d) @authorise action in relation to dangerous structures under Section 78</p>	Building Act 1984	<p>Director of Public Health and Communities</p> <p>Director of Place Sustainable Growth and Transport</p> <p>Director of Place Sustainable Growth and Transport</p>	
<p>To determine applications for exemption from the list of politically restricted posts</p> <p>Maintain a list of politically restricted posts</p>	<p>Local Government and Housing Act 1989 Section 3A</p> <p>Section 2</p>	Head of Paid Service	Monitoring Officer
<p>Receipt of Notice re changes to Political Groups</p> <p>Receipt of Notice of Cessation of Membership of Political Groups</p> <p>To accept wishes of Political Groups in respect of proportionality</p> <p>Receipt of notice in writing that a Councillor wishes to forego any part of entitlement to an allowance</p> <p>To notify Political Groups of allocations</p>	<p>Local Government and Housing Act 1989 Sections 15,16, 17 &amp; 18</p> <p>Local Government Political Groups) Regulations 1990 Paras 9, 10, 13 &amp; 14</p>	<p>Head of Paid Service</p> <p>Head of Paid Service</p> <p>Monitoring Officer</p> <p>Monitoring Officer</p> <p>Monitoring Officer</p>	Monitoring Officer

<b>Function</b>	<b>Legislative Provision</b>	<b>Proper Officer</b>	<b>Deputy</b>
Discharging the functions for dealing with stray dogs	Environmental Protection Act 1990 Sections 149 - 151	Director of Place, Sustainable Growth and Transport	
Service of notices requiring details of any interests in land.	Local Government (Miscellaneous Provisions) Act 1976 Section s 16	Monitoring Officer	
Certification of copies of resolutions, minutes and other documents	Local Government (Miscellaneous Provisions) Act 1976 Section 41	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 and Communities	
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 and Communities	
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 and Communities	
Signature and authentication of notices, orders or other documents	Section 59 Public Health (Control of Disease) Act 1984	Director of Public Health and Communities	
Power to enter premises	Sections 61 and 62 of the Public Health (Control of Disease) Act 1984	Director of Public Health and Communities	
The local registrar within the meaning of the Land Registration Act 2002 and	Land Registration Act 2002 and Local Land Charges Act 1975	Director of Place Sustainable	

<b>Function</b>	<b>Legislative Provision</b>	<b>Proper Officer</b>	<b>Deputy</b>
Local Land Charges Act 1975 who shall register any matters specified by these Acts affecting land situate within the district.		Growth and Transport	
Entertainments, licensing control of sex shops and public health	Local Government (Miscellaneous Provisions) Act 1982	Director of Public Health and Communities	
Licensing and gambling functions	Licensing Act 2003 Gambling Act 2005	Monitoring Officer	
Non-disclosure where potential to prejudice the effective conduct of public affairs	Freedom of Information Act 2000 Section 36	Monitoring Officer	
Scrutiny Officer	Local Government Act 2000 Section 9FB	Assistant Chief Executive	
Proper Officer Functions for petitions and referenda	Local Authorities (Referendums) (Petitions) (England) Regulations 2011/2914	Monitoring Officer	
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	
Proper Officer functions in relation to referendums	Local Authorities (Conduct of Referendums) (England) Regulations 2012	Head of Paid Service	Monitoring Officer

<b>Function</b>	<b>Legislative Provision</b>	<b>Proper Officer</b>	<b>Deputy</b>
Proper Officer functions anti-social behaviour and community protection	Anti-Social Behaviour Act 2003 and Anti-Social Behaviour, Crime and Policing Act 2014	Director of Place, Sustainable Growth and Transport	
Proper Officer for notification to deal with objections by the Executive to appointments or dismissals of Chief and Deputy Chief Officers	Local Authorities (Standing Orders) (England) Regulations 2001/3384	Monitoring Officer	
Arrangements for network management and appointment of Traffic Manager	Section 17 of the Traffic Management Act 2004	Director of Place Sustainable Growth and Transport	
Chief Inspector of Weights and Measures	Weights and Measures Act 1985 Section 72	Trading Standards Manager	
Virtual School Headteacher	Children Act 1989 Section 22 and 23ZZA	Director of Children and Family Wellbeing	
Data Protection Officer	Data Protection Act 2018 UK GDPR	Information Governance and Data Compliance Officer	
SIRO		Director of Resources	
Nominated officer to receive disclosures on suspected terrorist property	Terrorism Act 2000 Part 3	Head of Paid Service	
Making accounts available to inspection by Councillors of the Council	Local Government Act 1972 Section 228(3)	Chief Finance Officer	
Responsibility for Chief Finance Officer Reports	Proceeds of Crime Act 2002 Part 7	Chief Finance 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		

<b>Function</b>	<b>Legislative Provision</b>	<b>Proper Officer</b>	<b>Deputy</b>
Receipt and inspection of complaints of category 1 and 2 hazards on residential premises	Housing Act 2004 Section 4	Director of Public Health and Communities	
“Authorised Officer” to act in matters arising under the Food Safety Act	Food Safety Act 1990 Section 5	Director of Public Health and Communities	
Appointment of agricultural inspectors and an agricultural analyst	Agriculture Act 1970 Section 67	Director of Place, Sustainable Growth and Transport	
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 of Place, Sustainable Growth and Transport	
Duties in relation to street works in private streets	Highways Act 1980 Section 205(3) and (5)	Director of Place, Sustainable Growth and Transport	
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 of Place, Sustainable Growth and Transport	
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 of Place, Sustainable Growth and Transport	
Agreements for the execution of works	Highways Act 1980 Section 278	Director of Place, Sustainable Growth and Transport	
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 of Place, Sustainable	

<b>Function</b>	<b>Legislative Provision</b>	<b>Proper Officer</b>	<b>Deputy</b>
		Growth and Transport	
Signature and authentication of notices, consents, approvals, orders, demands, licences, certificates and other documents.	Highways Act 1980 Section 321	Director of Place, Sustainable Growth and Transport	
Receive notification of, and having free access to, repairs of drains	Building Act 1984 Section 61	Director of Place, Sustainable Growth and Transport	
Access to the countryside	Countryside and Rights of Way Act 2000 Section 1	Director of Place, Sustainable Growth and Transport	
Nomination of Public Analyst	Food Safety Act 1990 Section 27	Director of Public Health and Communities	

# Part 3

## Procedure Rules

The Council is required by law to have procedural rules that govern proceedings at decision making meetings. The Council has the following Procedure Rules:

1. Council Procedure Rules: These set out how meetings of the Council and most Committees and Sub-Committees will be conducted, for example, who can speak when and for how long. They include provision for members of the public to submit questions to meetings. For the purposes of these Rules a Sub-Committee does not include a Task and Finish Group or Advisory Group.
2. Executive Procedure Rules: These explain how executive decisions are made, how the Executive's meetings will run and also include provision for members of the public to ask questions.
3. Access to Information Procedure Rules: These rules set out the principles of how information can be obtained in relation to meetings of the Council, its Committees and Sub-Committees, Joint Committees and to public meetings of the Executive.
4. Budget and Policy Framework Procedure Rules: These set out the rules for developing the broad financial envelope and the policies for decisions made by the Executive.
5. Overview and Scrutiny Procedure Rules: As the Council operates an Executive model of governance, it is required to have at least one scrutiny committee. The Council has five Overview and Scrutiny Committees and one Joint Scrutiny Committee.
6. Finance Procedure Rules: These provide the framework for managing the Council's financial affairs, in order to ensure that they are conducted in a sound and proper manner, constitute value for money and minimise the risk of legal challenge to the Council.
7. Contracts Procedure Rules: These set out the principles, roles and processes involved in procuring works, goods or services at the Council. Following these rules will ensure that the Council buys works, goods and services in as transparent and fair way as possible.
8. Employment Procedure Rules: These set out the rules for appointment, discipline and dismissal of Statutory Chief Officers, appointment of Chief Officers and for determining terms and conditions of employment of Officers.
9. Outside Body Procedure Rules: These set out the procedure by which the Council will appoint officers or members to sit on outside bodies.

## Part 3 – Section 1 – Council Procedure Rules

### 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 on a date between 1<sup>st</sup> March and 31<sup>st</sup> May.
- 1.2 The Annual Meeting will:
  - 1.2.1 elect the Chair;
  - 1.2.2 elect the deputy Chair;
  - 1.2.3 approve the minutes of the last meeting;
  - 1.2.4 receive any announcements from the Chair and/or **Chief Executive**;
  - 1.2.5 elect the **Leader** upon expiry of their term of office;
  - 1.2.6 note the decision of the Leader on the number of Councillors to be appointed to the **Executive** and those Councillors appointed by the Leader to the Executive and note any amendments to the arrangements for the delegation of executive functions made by them;
  - 1.2.7 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);
  - 1.2.8 agree amendments (if any) to the **scheme of delegation** (as set out in **Part 2** of this Constitution) in respect of Council functions;
  - 1.2.9 approve a programme of ordinary meetings of the Council for the year;  
and
  - 1.2.10 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 of 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 any outside body to which the Council is required to appoint;
- 1.3.5 receive nominations of Members 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 4.00pm the day before the meeting of the intended substitution;
- 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 Executive; 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.

## **2 CHAIR OF MEETING**

- 2.1 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 also include the Chair of committees and sub-committees.

## **3 ORDINARY MEETINGS**

- 3.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary Meetings will:
  - 3.1.1 elect a person to preside if the Chair and deputy Chair are not present;
  - 3.1.2 receive apologies;
  - 3.1.3 approve the minutes of the last meeting;
  - 3.1.4 receive any declarations of interest from Councillors;
  - 3.1.5 receive any announcements from the Chair, Leader, Councillors of the Executive or the Chief Executive;
  - 3.1.6 deal with any business which is required by law to be done before any other business;

- 3.1.7 deal with any business from the last Council meeting;
- 3.1.8 receive petitions, debate those required to be debated by Council, and receive reports on action taken on petitions received from members of the public under Rule 9.1;
- 3.1.9 receive, and provide answers to, questions asked by members of the public under Rule 10;
- 3.1.10 receive, and provide answers to, questions asked by Councillors under Rule 11;
- 3.1.11 consider **Motions** received under Rule 12.
- 3.1.12 receive reports and recommendations from the Executive and the Council's Committees and receive questions and answers on any of those reports;
- 3.1.13 consider the business which is specified in the summons to the meeting ("the **Agenda**"), including consideration of proposals from the Executive in relation to the Council's **Budget and Policy Framework**, reports of the Overview and Scrutiny committees for debate and reports from officers; and

## 4 EXTRAORDINARY MEETINGS

### Calling Extraordinary Meetings

- 4.1 Those listed below may ask the proper officer to call Extraordinary Council Meetings in addition to Ordinary Meetings:
  - (a) the Council by resolution;
  - (b) the Chair of Council;
  - (c) the **Monitoring Officer**; or
  - (d) any five Councillors 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 at Extraordinary Meetings

- 4.2 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, no questions and no motions etc. 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.

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

- 5.1 The time and place of meetings will be determined by the Monitoring Officer and notified in the summons.

## **6 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 Rules in **Part 3** of this Constitution. At least five clear days before a meeting, the proper officer will send a summons signed by him or her to every member of the Council. The summons will normally be sent via electronic means. The summons will give the date, time and place of each meeting and specify the business to be transacted at the meeting (the **Agenda**) together with accompanying reports.

## **7 QUORUM**

- 7.1 The **quorum** of an Ordinary Meeting or an Extraordinary Council Meeting will be one quarter of the whole number of Councillors. During any meeting if the Chair counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

## **8 DURATION OF MEETINGS**

- 8.1 Any Meeting that has lasted for one and a half hours shall, at a convenient time, be adjourned by the Chair for a period of ten minutes.
- 8.2 When three hours has elapsed after the commencement of any Meeting, unless the majority of Members present vote for the Meeting to continue, the Meeting will adjourn immediately upon the completion of any speech being made at that time.
- 8.3 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 a time and date fixed by the Chair.
- 8.4 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 DEPUTATIONS AND PETITIONS**

### **Deputations**

- 9.1 Deputations may be received at ordinary meetings of Council and at meetings of its executive, committees, sub-committees, panels and working groups immediately following questions from the public. The nature and object of the deputation and the names of members shall be delivered in writing to the Monitoring Officer no later than **noon on the ninth working day** before the day of the meeting. The issue raised by the deputation must relate to a matter which falls within the powers and duties of the Council or the relevant body as determined by the Monitoring Officer. The Chair may, at their discretion, limit the number of speakers and the time each speaker may speak for. No speech should exceed three minutes. Each member of the public may only speak once. Public speaking on any one item shall not exceed [10] minutes, subject to the Chair's discretion to extend the time if they consider it appropriate.

### **Petitions**

- 9.2 Petitions may be presented to the Council if provided to the Monitoring Officer no later than noon on the ninth **working day** before the meeting, at the discretion of the Chair. The person presenting the petition will be allowed to address the meeting for up to three minutes to outline the aims of the petition.
- 9.3 Petitions will otherwise be dealt with in accordance with the Council's approved Scheme for Submissions of Petitions.
- 9.4 Except where the matter raised by a deputation or 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 deputation or petition, but a Councillor may move that the matter be referred to the next meeting of the Executive or the appropriate Committee, Sub Committee, Panel or Working Group and this motion shall be immediately put to the vote.

## **10 QUESTIONS 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 time shall be available to allow questions that have been submitted by members of the public who live, work or study in the Council's area, to be asked of the Leader of the Council or an Executive Councillor or a Chair of a Committee of the Council and for the relevant Councillor to respond.
- 10.2 Any person who wishes to ask a question shall give written notice of the question to the Monitoring Officer by **noon on the fifth working day** before the meeting. Each question must give the full name and address of the questioner and must identify the Councillor to whom it is to be put. Notice must be provided at this time of any accompanying preamble to be given when putting the question to Council.
- 10.3 If the Monitoring Officer considers that the number of questions received is such that they cannot all be answered within a reasonable time, 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 Councillor of whom the question was asked.

- 10.4 The Chair will determine the order in which questions under this section will be put and may group together similar questions.
- 10.5 A question may be rejected if it:
  - 10.5.1 is not relevant to a matter for which the Council has a responsibility or which affects the Council's area;
  - 10.5.2 is illegal, improper, irregular, frivolous or offensive;
  - 10.5.3 is substantially the same as a question which has been put at a meeting of the Council in the previous six months;
  - 10.5.4 will, if answered, disclose confidential or exempt information;
  - 10.5.5 relates to a development control or licensing application;
  - 10.5.6 relates to a matter or issue in respect of which a response has already been given under the Council's complaints procedure or which is currently being dealt with in accordance with the complaints procedure or other formal process, such as court or tribunal proceedings or which is the subject of threatened court or tribunal proceedings by the person asking the question or a person or group which they represent;
  - 10.5.7 relates to a matter or issue of a purely personal concern to the individual asking the question or their family members;
  - 10.5.8 is lengthy or a speech; or
  - 10.5.9 is an unintelligible question.
- 10.6 If the Monitoring Officer considers that a question submitted may be rejected under these Rules, they will advise the Chair, who will then decide whether to allow the question to be put. If the Chair decides not to allow a question, his or her reasons will be notified to the questioner in writing in advance of the meeting.
- 10.7 No person may submit more than one question to any one meeting and no more than one question may be asked on behalf of an organisation at any one meeting. No question may be sub-divided into more than two related parts.

#### **Asking the question at the meeting**

- 10.8 The Chair will invite the questioner to put the question to the Councillor named in the notice. Three minutes are allowed for putting the question. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

- 10.9 A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds in Rule 10.5 above. Two minutes are allowed for putting the supplementary question.

### **Record of questions**

- 10.11 Questions that have been accepted and the name of the questioner will be published on the Council's website.

### **Answers**

- 10.12 Every question shall be put and answered without discussion. An answer may take the form of:

10.12.1 a direct oral answer, for which two minutes are allowed for answering a question and two minutes are allowed for answering a supplementary question;

10.12.2 where the information requested is contained in a publication of the Council, a reference to that publication; or

10.12.3 a written answer to be provided later to the questioner, where the reply cannot conveniently be given orally, in which circumstance the councillor questioned will arrange for the written response to be provided to the questioner and circulated to all Councillors within 10 working days thereafter.

### **Reference of question to a Committee**

- 10.13 Any Councillor may move that a matter raised by a question be referred to the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

### **Regulatory Committees**

- 10.14 Separate arrangements are in place for the public to 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 COUNCILLORS**

### **On reports of the Executive or Committees**

- 11.1 A Councillor may ask the Leader, the relevant Executive Councillor or the Chair of a Committee, a Sub Committee or Working Group any question without notice upon an item of the report of the Executive or a committee when that item is being received or under consideration by the Council, with the following exceptions:

- 11.1.1 Only Councillors who are not Executive Councillors shall be allowed to ask Executive Councillors questions on the Executive report, to enable Council to hold the Executive to account.
- 11.1.2 Executive Councillors may only question the Leader on any matters which have not previously been considered at Executive.
- 11.2 The Chair shall have discretion to ensure that the questions asked under Rule 11.1 are representative of the views of Councillors, and where, in the Chair's belief, the questions that have already been put shall have represented the views of the Councillors, the Chair shall intervene to limit further questions in order not to impede proper attention to further business.

### **Questions on notice at Council**

- 11.3 Subject to Rule 11.4, a Councillor may ask:
- (a) the Leader;
  - (b) a Councillor of the Executive;
  - (c) the Chair of any committee a question on any matter in relation to which the Council has powers or duties or which affects the Council's area; or
  - (d) the Councillor nominated to respond on behalf of the Police, Crime and Fire Panel or any other joint authority, committee or panel, any question on the discharge of the functions of the relevant joint authority, committee or panel.

### **Notice of Questions**

- 11.4 A Councillor may only ask a question under Rule 11.3 provided:
- (a) that notice in writing of the question has been given to the Monitoring Officer by **noon on the ninth working day** before the meeting or with the consent of the Chair given on the grounds that they are of the opinion that the matter is urgent and the content of the question is given to the Monitoring Officer by 09:30 on the day of the meeting; and
  - (b) the Monitoring Officer does not reject the question on the following grounds, that it:
    - (i) is not about a matter for which the Council has a responsibility or which affects the Council's area;
    - (ii) is potentially defamatory, vexatious, frivolous or offensive;
    - (iii) refers to applications for or objections to planning permission or any licence, notice or order issued, served or made by the Council;
    - (iv) is substantially the same as a question which has been put at a meeting of the Council in the past six months; or

- (v) relates to individual staffing matters or the personal information of Councillors or officers.

### **Response**

11.5 An answer may take the form of:

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

### **Supplementary Question**

11.6 A Councillor asking a question under Rule 11 may only ask one further supplementary question without notice of the Councillor to whom the first question was asked. The supplementary question must arise directly out of the original question and the reply and will be restricted to two minutes duration.

### **Order of Questions**

11.7 The Chair will determine the order in which questions under this section are put.

### **Written Answers**

11.8 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 Councillor of whom the question was asked.

## **12 MOTIONS ON NOTICE**

### **Notice**

12.1 Except for motions which can be moved without notice under Rule 13, written notice of every motion 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. The Monitoring Officer will date the notice, number it in the order in which it is received and will enter it in a book (which may be in electronic format) open to public inspection. A copy will be sent to the Leader of each political group on the Council.

### **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, seconded and debated, that motion shall be referred without discussion or amendment to the appropriate Director who shall prepare a report setting out the feasibility and impact of the proposals, the outcome of which shall be reported to a future meeting of the Executive. Upon receiving such report, the Executive will consider proposals in accordance with the **Budget and Policy Framework Procedure Rules**.

12.4 The Monitoring Officer may reject a motion on the following grounds, that it:

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 Councillors or Officers; or

12.4.6 is in some other respect considered to be out of order, illegal, irregular or improper

12.5 The Monitoring Officer may refer a Motion to the relevant Council or Executive Committee without it first being considered by Council if they consider it appropriate to do so but will first discuss with the Councillor bringing the motion and will have regard to the Councillor's views on such referral.

### **Motion set out in agenda**

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

### **Number of Motions**

12.7 Any Councillor may give notice of not more than one motion for consideration at any meeting of the Council.

### **Amendments to Motions on Notice**

12.8 All amendments to Motions on Notice must be delivered to the Monitoring Officer by **9.30am on the third working day** before the date of the and must comply with the requirements of Rule 14. The Chair may allow amendments without notice, or alterations to amendments, in exceptional circumstances

where the Chair considers it conducive or necessary to the business of the Council to do so.

### **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 Councillor 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 extend the time limit for speeches;
- 13.1.10 to proceed to the next business;
- 13.1.11 that the question be now put;
- 13.1.12 to adjourn a debate;
- 13.1.13 to adjourn a meeting;
- 13.1.14 to suspend a particular Council procedure rule;
- 13.1.15 to exclude the public and press in accordance with the Access to Information Rules;
- 13.1.16 to not hear further a Councillor named under Rule 21.3 or to exclude them from the meeting under Rule 21.4; and
- 13.1.17 to give the consent of the Council where its consent is required by this Constitution.

### **14 RULES OF DEBATE**

14.1 If the Councillor proposing the Motion is not available to attend the Meeting then, with agreement of both the Monitoring Officer and the Chair (which

agreement will only be provided in exceptional circumstances and where the motion cannot reasonably be delayed to the next Council meeting) they may authorise another Councillor to move the motion 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.

#### **Secunder's speech**

- 14.4 When seconding a motion or amendment, a Councillor 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 seven minutes. No speech may exceed seven minutes without the consent of the Chair, such consent not to be unreasonably refused.

#### **When a Councillor may speak again**

- 14.6 A Councillor 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 Councillor;
  - 14.6.2 to move a further amendment;
  - 14.6.3 if their first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
  - 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 14.7.2 to 14.7.4 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 Councillor wishes to exercise the right to speak, put it to the vote.
- 14.12 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 Councillor(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 Councillors as soon as reasonably practicable. If the proposed amendment is carried, this Rule will not apply to any further amendment(s). 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.
- 14.13 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 Executive Councillor may be invited to speak on the Budget in relation to their area of responsibility. Each amendment shall be moved, seconded and debated in turn in the order determined by the Chair. The Leader (or other Councillor 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. When all amendments have been disposed of, the vote will be taken on the substantive motion.

#### **Alteration of motion**

- 14.14 A Councillor may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 14.15 A Councillor may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

14.16 Only alterations which could be made as an amendment may be made.

#### **Withdrawal of motion**

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

#### **Right of reply**

14.18 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.

14.19 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.

14.20 The mover of the amendment has no right of reply to the debate on his or her amendment.

14.21 In exercising a right of reply, the mover may not introduce any new matter.

#### **Motions which may be moved during debate**

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

14.22.1 to withdraw a motion;

14.22.2 to amend a motion;

14.22.3 to proceed to the next business;

14.22.4 that the question be now put;

14.22.5 to adjourn a debate;

14.22.6 to adjourn a meeting;

14.22.7 to exclude the public and press in accordance with the Access to Information Rules; and

14.22.8 to not hear further a Councillor named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

#### **Closure motions**

14.23 A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:

14.23.1 to proceed to the next business;

14.23.2 that the question be now put;

14.23.3 to adjourn a debate; or

14.23.4 to adjourn a meeting.

14.24 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.

14.25 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.

14.26 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### **Duties of the Chair or Person Presiding**

14.27 Where, in the Chair's belief, any debate shall already have represented the views of Councillors, 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**

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

### **Personal Explanation**

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

### **Motions or amendments affecting persons employed by the Council**

14.30 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 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 twelve Councillors.

### **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 twelve Councillors. 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 Executive or a committee.

## **16 VOTING**

### **Majority**

- 16.1 Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Councillors voting and present in the room at the time the question 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 Council Chamber or 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.
- 16.4 If there is no dissent, agreement may be signalled by acclamation.
- 16.5 If there is dissent, but it is clear to the Chair that a majority of Councillors are in agreement, the consent of the Meeting may be signalled by acclamation.

- 16.6 Rules 16.4 and 16.5 are without prejudice to a Councillor's right to have their individual vote recorded in accordance with Rule 16.12.
- 16.7 The voting on any question at a meeting of the Council shall be recorded so as to show whether each Councillor present expressed their vote as being for or against that question, or that they abstained.

### **Voting in relation to setting the Budget**

- 16.8 At a Budget decision meeting of the Council:-
- 16.8.1 Immediately after any vote is taken there must be recorded in the minutes of the proceedings of that meeting the names of the Councillors who cast a vote for or against the decision or who abstained from voting.
- 16.8.2 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.
- 16.8.3 Reference to a "vote" for the purposes of this Rule are references to a vote on any decision related to the meeting or the calculation as the case may be including a vote on any amendment to a proposal.

### **Voting at Other Meetings**

- 16.9 Unless a recorded vote is demanded under Rules 16.10 or 16.11 the Chair will take the vote using any of the means set out in paragraph 16.3 or, if there is no dissent, by the affirmation of the meeting.

### **Recorded vote**

- 16.10 If one quarter of the Councillors eligible to vote and present 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**

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

### **Voting on appointments**

- 16.12 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.
- 17.3 There is no requirement to sign minutes of the previous meeting at an extraordinary meeting.

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

### **Form of minutes**

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

## **18 RECORD OF ATTENDANCE**

The attendance of Councillors at meetings of the Council shall be recorded by a roll call.

## **19 EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in **Part 3** of this Constitution or Rule 21 (Disturbance by Public).

## **20 COUNCILLORS' CONDUCT**

### **Standing to speak**

- 20.1 When a Councillor speaks at Council they must stand and address the meeting through the Chair. If more than one Councillor stands, the Chair will ask one to speak and the others must sit. Other Councillors must remain seated whilst a

Councillor is speaking unless they wish to make a point of order or a point of personal explanation. The Chair may waive the requirement to stand if they consider this to be appropriate.

### **Chair standing**

- 20.2 When the Chair stands during a debate, any Councillor speaking at the time must stop and sit down. The meeting must be silent.

### **Councillor not to be heard further**

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

### **Councillor to leave the meeting**

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

### **General disturbance**

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

## **21 DISTURBANCE BY PUBLIC**

### **Removal of member of the public**

- 21.1 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.

### **Clearance of part of meeting room**

- 21.2 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.

## **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 Councillors 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 Councillor must withdraw from the meeting room (including from the public gallery) during the whole of the consideration of any item of business in which they have a Disclosable Pecuniary Interest or other personal interest, except where permitted to remain either as a result of a dispensation or, in quasi-judicial meetings, they may attend but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose, whether under a statutory right or otherwise. Once any such representations etc have been made, the Councillor should leave the room whilst any discussion or vote takes place.

## **24 APPLICATION TO EXECUTIVE COMMITTEES AND SUB-COMMITTEES**

- 24.1 None of the Rules apply to meetings of the Executive.
- 24.2 Rules 4, 6 and 7, 16 – 24 (except Rule 16.3 – 16.6 and Rule 20.1) apply to meetings of committees and sub-committees.

## Part 3 – Section 2 – Executive 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 **Executive** as a whole;
  - 1.1.2 a committee of the Executive;
  - 1.1.3 an individual **Executive Councillor**;
  - 1.1.4 an officer of the authority;
  - 1.1.5 an area committee;
  - 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 **Council**, the **Leader** will present the names of the Councillors appointed to the **Executive** by the Leader (including the Executive Councillor who is appointed as the Deputy Leader) and their **portfolios**.
- 1.3 Either at the Annual Meeting of the **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 **Executive Councillors**;
  - 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 **Executive** as a whole;
    - (b) the extent of any authority delegated to individual **Executive Councillors**, including details of any limitation on their authority;
    - (c) the terms of reference and constitution of such committees of the **Executive** as the **Leader** appoints and the names of **Executive Councillors** 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 **Executive Councillors** 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 Executive Functions**

- 1.4 Where the **Leader** delegates an **executive function** to the **Executive** then unless the Leader directs otherwise, the Executive may delegate further to a committee of the Executive or to a Council officer;
- 1.5 Where the **Leader** delegates an **executive function** to a committee of the **Executive** or an individual **Executive Councillor** then unless the Leader directs otherwise, a committee of the Executive or an individual Councillor of the Executive 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 **Executive**, notice will be deemed to be served on that committee of the Executive 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 **Council** at the earliest opportunity.

### **Place and Time of Executive Meetings**

- 1.10 The **Executive** 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 Monitoring Officer. The Executive shall meet at any of the anchor buildings to be agreed by the Leader with the Monitoring Officer.

### **Public or Private Meetings of the Executive**

- 1.11 The **Executive**, and any Committee of the Executive, 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 **Executive** shall be three. The quorum for a committee of the Executive shall be three.

### **How are Decisions to be Taken by the Executive**

- 1.13 The **Executive** will take decisions in accordance with the Access to Information Procedure Rules.

### **Chair 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 **Executive Councillor** appointed to do so by those Executive Councillors present will chair the meeting.

### **Attendance Rights**

- 1.15 All **Executive Councillors** shall be entitled to attend meetings of the **Executive** unless the Executive determine otherwise. Attendance by other Councillors or the public shall 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 Officer** and the **Monitoring Officer**, and their nominees, are entitled to attend any meeting of the Executive where a decision is to be made.

### **Speaking Rights**

- 1.17 The Chair and spokesperson(s) of any of the Council's Overview & Scrutiny Committees shall be invited to a public meeting of the **Executive** and shall be entitled to speak on any matter on the agenda for that meeting which relates to the remit of the particular Overview and Scrutiny Committee.
- 1.18 Other **Councillors** not previously described above may also speak at such meetings with the prior permission of the **Leader** or person presiding in their absence.
- 1.19 At every formal public meeting of the **Executive** there shall be an opportunity for questions to be put to **Executive Councillors** by **Councillors** and by members of the public, so long as notice of these questions has been given in accordance with paragraph 1.21. The following rules shall apply:
- 1.19.1 questions must relate to the powers, duties or responsibilities of the Executive.
  - 1.19.2 questions put to Executive Councillors must relate to their **portfolio** responsibilities.
  - 1.19.3 the **Leader** will determine how Executive 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, in consultation with the Monitoring Officer, 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) substantially the same as a question asked at a meeting of Council or Executive within the preceding six months; or
    - (f) is an unintelligible questionwill not be allowed.

- 1.20 Where any question might be disallowed under the agreed provisions, the **Leader**, as Chair of the **Executive**, will have absolute discretion to determine whether to do so.
- 1.21 Notice in writing of the question must have been given to the Monitoring Officer by noon on the ninth working day prior to the meeting or, where the Leader is of the opinion that the matter is urgent, by 09:30 on the day of the meeting.
- 1.22 The questioner may attend the meeting in order to put the question. Where the questioner is a member of the public, they may nominate a representative to put the question on their behalf.
- 1.23 Questions will be asked and answered without discussion. In replying, the **Executive Councillor** responding will use their reasonable endeavours to address the matters raised in the question. The Executive Councillor responding may reasonably decline to answer any question or may: reply direct, reply by reference to a publication, or reply by written answer.
- 1.24 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.
- 1.25 Where a question relates to a matter which appears on the agenda of the **Executive** meeting in question, the **Leader** may allow the question to be asked at the beginning of consideration of that item.
- 1.26 Questions and answers will be recorded in the minutes of the meeting.
- 1.27 The **Executive** 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 under the Local Government Acts in respect of Access to Information and Data Protection are observed.

### **Business to be Conducted**

- 1.28 At each meeting of the **Executive** the following business will be conducted:
  - 1.28.1 consideration of the minutes of the last meeting;
  - 1.28.2 declarations of interest, if any;
  - 1.28.3 questions from Councillors or members of the public;
  - 1.28.4 matters referred to the **Executive** (whether by the Overview & Scrutiny Committee or by the **Council**) for reconsideration by the Executive in accordance with the provisions contained in the Overview & Scrutiny Standing Orders or the Budget and Policy Framework Standing Orders;
  - 1.28.5 consideration of any reports from the Overview & Scrutiny Committee; and



- 1.28.6 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**

- 1.29 In taking decisions, the **Executive** must satisfy itself that it has before it adequate and appropriate advice and the Executive shall take that advice into consideration in determining the matter. The advice shall be from the relevant service, the **Monitoring Officer** and the **Chief Finance Officer** who shall, where appropriate, be present at any meeting where a decision is being taken.
- 1.30 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 Officer**.

### **Consultation**

- 1.31 All reports to the **Executive** from any **Executive Councillor** 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 Overview & Scrutiny Committee, and the outcome of that consultation.

### **Rights to Place Items on the Executive Agenda**

- 1.32 The **Leader** will decide upon the schedule for the meetings of the **Executive**. They may put on the agenda of any Executive meeting any matter which they wish, whether or not authority has been delegated to the Executive, a committee of it or any Councillor or officer in respect of that matter. The **Monitoring Officer** will comply with the Leader's requests in this respect.
- 1.33 Any **Executive Councillor** may require the **Monitoring Officer** to make sure that an item is placed on the agenda of the next available meeting of the **Executive** for consideration. If they receive such a request the Monitoring Officer will comply.
- 1.34 There will be a standing item on the agenda of each meeting of the **Executive** for matters referred by the **Council** or the Overview & Scrutiny Committee for reconsideration and for reports of Overview & Scrutiny Committee.
- 1.35 The **Chief Executive, Monitoring Officer** and/or the **Chief Finance Officer** may include an item for consideration on the agenda of an **Executive** meeting and may require the **Monitoring Officer** to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the **Head of Paid Service, Chief Finance Officer** and **Monitoring Officer** are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Executive meeting. If there is no meeting of the Executive 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.
- 1.36 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 **Executive** will be made available, electronically, in advance of the respective meeting, to all Councillors and 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 **Executive** (together called meetings) and (where specified) **executive decisions** made by **Executive Councillors** 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 registered office and on its website 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 shall be open to inspection from the time the meeting is convened. If an item is added to the agenda later, 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 website.
- 5.4 This rule does not require the publication of exempt or confidential information (as defined in rule 9).

## **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 **Executive** 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 PUBLIC ACCESS TO MINUTES ETC. AFTER THE MEETING**

- 7.1 The Council will make available copies of the following for six years after a meeting:
  - 7.1.1 the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information (as defined in rule 9);
  - 7.1.2 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;
  - 7.1.3 the agenda for the meeting; and
  - 7.1.4 reports relating to items when the meeting was open to the public.

## **8 PUBLIC ACCESS TO BACKGROUND PAPERS**

### **List of background papers**

8.1 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:

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

8.1.2 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**

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

## **9 EXCLUSION OF ACCESS BY THE PRESS AND PUBLIC TO MEETINGS**

### **Confidential information - requirement to exclude the press and public**

9.1 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**

9.2 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:

9.2.1 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;

9.2.2 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

9.2.3 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,

- 9.3 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**

- 9.4 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**

- 9.5 Exempt information means information falling within the following descriptions (subject to any qualifications):

	<b>Description</b>	<b>Qualification</b>
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).	<p>Information within paragraph 3 is not exempt information if it is required to be registered under-</p> <ul style="list-style-type: none"> <li>(a) the Companies Act 2006;</li> <li>(b) the Friendly Societies Act 1974;</li> <li>(c) the Friendly Societies Act 1992;</li> <li>(d) the Co-operative and Community Benefit Societies Act 2014;</li> <li>(e) the Building Societies Act 1986; or</li> <li>(f) the Charities Act 2011.</li> </ul> <p>Subject to the above, information within paragraph 3 is exempt information if and so long, as in all the circumstances of the</p>

	Description	Qualification
		case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
4.	<p>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations</p> <p>matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	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.	<p>Information which reveals that the authority proposes –</p> <p>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>b) to make an order or direction under any enactment.</p>	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.
7.	Information relating to any action taken or to be taken in connection with the prevention,	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

	Description	Qualification
	investigation or prosecution of crime.	outweighs the public interest in disclosing the information.

9.6 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.

## 10 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

10.1 If the **Monitoring Officer** thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with rule 9, 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.

## 11 KEY DECISIONS

11.1 Certain executive decisions will be **key decisions**.

11.2 A **key decision** is defined as 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, and/or is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the Council.

11.3 For these purposes, savings and expenditure are “significant” if they are equal to or greater than £500,000 or if the decision will have a significant effect on the communities living or working in one or more wards of the Council’s area. For example, it is likely that proposals for changing the character of a school, closing or opening Council services or facilities, or major changes to transport arrangements affecting an area would be significant. This is not an exhaustive list.

## 12 APPLICATION OF RULES TO THE EXECUTIVE

12.1 Rules 12 – 24.2 of this Part 3, Section 3 apply to the Executive and its committees. If the Executive or its committees meet to take a Key Decision then it must also comply with Rules 1 – 11 and Rules 24.3 – 26 unless Rule 15 (general exception) or Rule 16 (special urgency) apply.



## **13 PROCEDURE BEFORE TAKING KEY DECISIONS**

- 13.1 Subject to Rule 15 (general exception) and Rule 16 (special urgency) of this Part 3, Section 3, a Key Decision may not be taken unless:
- 13.1.1 a notice (called here a Forward Plan) has been published in connection with the matter in question;
  - 13.1.2 at least 28 days have elapsed since the publication of the Forward Plan; and
  - 13.1.3 where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings) of this Part 3, Section 3.

## **14 THE FORWARD PLAN OF KEY DECISIONS**

### **Period of Forward Plan**

- 14.1 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**

- 14.2 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 **Executive**, an **Executive Councillor**, a committee of the Executive, 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 Committees. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
- 14.2.1 the matter in respect of which a decision is to be made;
  - 14.2.2 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;
  - 14.2.3 the date on which, or the period within which, the decision will be taken;
  - 14.2.4 the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
  - 14.2.5 the means by which any such consultation is proposed to be undertaken;

- 14.2.6 the steps any person might take who wishes to make representations to the Executive 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;
  - 14.2.7 a list of the documents submitted to the decision taker for consideration in relation to the matter; and
  - 14.2.8 where the decision is to be taken in private the reasons for this.
- 14.3 Exempt and confidential information and the advice of political advisers will not be included in a forward plan but the Forward Plan should contain particulars of the matter.

#### **Publication and availability of Forward Plan**

- 14.4 The Forward Plan will be published on the Council's website and will be made available for inspection at the Council's registered office.
- 14.5 In respect of meetings to be held in private, the additional requirements of Rule (Notice of Private Meetings of the Executive) of this Part 3, Section 2 will apply.

### **15 GENERAL EXCEPTION**

- 15.1 If a matter which is likely to be a **key decision** has not been included in the Forward Plan, then subject to Rule 16 (Special Urgency), the decision may still be taken if:
  - 15.1.1 the decision must be taken by such a date that it is impracticable to defer the decision;
  - 15.1.2 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;
  - 15.1.3 The Proper Officer has made copies of that notice available to the public at the offices of the Council; and
  - 15.1.4 at least 5 clear days have elapsed since the Proper Officer complied with paragraphs 15.1.2 and 15.1.3.
- 15.2 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.

### **16 SPECIAL URGENCY**

- 16.1 If, by virtue of the date by which a decision must be taken, Rule 15 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision,

obtains the agreement of the Chair of a relevant Overview & Scrutiny Committee that the taking of the decision cannot be reasonably deferred and the decision is urgent.

- 16.2 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.
- 16.3 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 website.

## 17 PRIVATE MEETINGS

- 17.1 Where the date by which a meeting must be held makes compliance with Rule 18 impracticable, the meeting may only be held where the decision-making body has obtained agreement from the Chair of a relevant Overview & Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred.
- 17.2 If there is no Chair of a relevant Overview & Scrutiny Committee, or if the Chair of each 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 the decision-making body has obtained agreement to hold a private meeting the Monitoring Officer shall publish a notice setting out why the meeting is urgent and cannot reasonably be deferred and shall make that notice available to the public at the designated office and on the website.

## 18 PROCEDURE PRIOR TO PRIVATE MEETINGS

- 18.1 Subject to Rule 17, 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 registered 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 Where the date by which a meeting must be held makes compliance with Rule 18.1 impracticable, the meeting may only be held where the decision-making body has obtained agreement from the Chair of a relevant Overview & Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred.
- 18.3 If there is no Chair of a relevant Overview & Scrutiny Committee, or if the Chair of each 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.
- 18.4 As soon as reasonably practicable after the decision-making body has obtained agreement to hold a private meeting the Monitoring Officer shall publish a notice setting out why the meeting is urgent and cannot reasonably be deferred and shall make that notice available to the public at the registered office and on the website.

## 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 Overview & Scrutiny Committee may require the **Executive** 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 Overview & Scrutiny Committee.

### The Executive's report to Council

- 19.2 The **Executive** 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 RECORD OF DECISIONS**

- 20.1 After an **executive decision** is taken the Proper Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as reasonably practicable and make it available for inspection by the public. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. The minutes of the meeting will be regarded as the record of these decisions.

## **21 REPORTING OF MEETINGS BY THE PRESS AND PUBLIC**

- 21.1 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.
- 21.2 Any person wishing to record a public meeting is not required to give the local authority prior notice although they are encouraged to do so in order that reasonable facilities can be provided.
- 21.3 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.
- 21.4 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.
- 21.5 Any person recording or reporting a meeting may not film any member of the public who remains in the public gallery.
- 21.6 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.

## **22 EXECUTIVE DECISIONS BY INDIVIDUAL EXECUTIVE COUNCILLORS OR OFFICERS**

22.1 Where an individual **Executive Councillor** or officer receives a report which they intend to take into account in making any **key decision**, the requirements of rules 12–25 shall apply.

22.2 An **executive decision** to be made by an individual **Executive Councillor**, or a **key decision** by an officer, may then only be taken:

22.2.1 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

22.2.2 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

22.2.3 a list compiled of any Background Papers to the report in accordance with Rule 9 above.

22.3 As soon as reasonably practicable after any **executive decision** has been made by an individual **Executive Councillor** or a **key decision** has been taken by an officer, they will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Standing Orders 40 and 41 (inspection of documents after meetings) will also apply to the making of key decisions by officers. This does not require the disclosure of exempt or confidential information, or advice from a political adviser or assistant.

## **23 OVERVIEW & SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

- 23.1 Members of the Overview & Scrutiny Committees 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 **executive** 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 access to documents and to attend the confidential part of meetings of Committees and sub-committees and public meetings of the **Executive** (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 **Executive** where the Councillor is a **Executive Councillor**;
  - 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 Executive;
  - 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 Executive 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 **Executive** 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 **Executive** 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. The consultation period shall in each instance be not less than four weeks;
  - 2.1.2 At the end of that period, the Executive 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 Executive 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 Executive 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 Executive has approved the firm proposals, they shall be referred at the earliest opportunity to the Council for decision.
  - 2.1.5 Where the Executive 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 **Executive** 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 **Executive** 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 **Executive** within which the Leader of the Council may:
- 3.4.1 submit a revision of the draft plan or strategy as amended by the **Executive** (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 **Executive** has with any of the Council's objections and the Executive'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 **Executive's** reasons for those amendments, any disagreement that the Executive has with any of the Council's objections and the Executive'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 **Executive** 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 **Executive** to the **Council** where the estimates and calculations were drawn up by the Executive on or after 8th February in any financial year.

4.2 Where, in any financial year, the **Executive** 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 **Executive'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 **Executive** within which the Leader may:

4.4.1 submit a revision of the estimates or amounts as amended by the **Executive** ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Executive'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 **Executive** has with any of the Council's objections and the Executive'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 **Executive's** reasons for those amendments;

4.5.3 any disagreements that the Executive has with any of the Council's objections, and

4.5.4 the Executive'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 **Executive** 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 relevant 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 **Executive Councillor**. The Leader and/or the appropriate Executive Councillor 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 **Executive**, committees of the Executive, individual **Executive Councillors** 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 **Executive**, committees of the Executive, individual **Executive Councillors** 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 **Executive**, a committee of the Executive, an individual **Executive Councillor** 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 Steps taken by the **Executive**, a committee of the Executive, an individual **Executive Councillor** or an officer to implement Council policy shall not exceed those budgets allocated to each budget heading, subject to Rules 7.2 to 7.4 below.

- 7.2 Such bodies or individuals shall be entitled to **vire** across budget headings in accordance with the limits set out in the **Financial Procedure Rules**.
- 7.3 The **Executive** may:
- 7.3.1 increase capital or revenue expenditure in-year by use of reserves (in addition to the use of reserves planned in the budget calculations), provided that such use of reserves do not exceed £500,000 in aggregate in a financial year and provided that the **Chief Finance Officer** has certified in writing that such use of reserves would not cause the Council's overall reserves to fall below a prudent level. Any such use of reserves shall be reported to the next meeting of Council; and
  - 7.3.2 increase the capital budget provided that additional expenditure can be funded through:
    - (a) additional external resources;
    - (b) additional capital receipts; and
    - (c) additional credit approvals.
- 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 Executive meeting. The Chief Executive will report any such decision to the Chair of Overview & Scrutiny and the next meeting of the Executive.

## **8 IN-YEAR CHANGES TO POLICY FRAMEWORK**

- 8.1 The responsibility for agreeing the policy framework lies with the **Council**, and decisions by the **Executive**, a committee of the Executive, an individual **Executive Councillor** 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 an **Executive** 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 **Executive**, the **Monitoring Officer's** report and/or **Chief Finance Officer's** report shall be to the Executive with a copy to every Councillor. Regardless of whether the decision is delegated or not, the Executive 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 Executive 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 Executive 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 Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive 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, it will require the Executive 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 the Overview & Scrutiny Committees set out in **Part 2** of this Constitution.

### 2 TERMS OF REFERENCE

- 2.1 The general and specific role of the Overview & Scrutiny Committees 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 six ordinary meetings of the Overview & Scrutiny Committees 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 Chair 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 shall be in accordance with Part 2 of this Constitution.

### 5 WORK PROGRAMME

- 5.1 The Overview & Scrutiny Committees will be responsible for setting their own 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 **Council**.
- 5.2 The Overview & Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the **Council** and the **Executive**, or to Councillor Calls for Action, to review particular areas of Council activity. Where it does, the Overview & Scrutiny Committee shall report its findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive 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 the Overview & Scrutiny Committee shall be entitled to request, 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 an **Executive Councillor** 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 Chair of the 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 the 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 **Council** or the **Executive** 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 9).

### 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 Executive for developments insofar 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 OVERVIEW & SCRUTINY COMMITTEE**

- 7.1 This Rule applies where an Overview & Scrutiny Committee makes a report or recommendation to the **Council** or the **Executive**, except in relation to a crime and disorder matter.
- 7.2 The Overview & Scrutiny Committee may publish the report or recommendations.
- 7.3 The Overview & Scrutiny Committee must by notice in writing require the Council or Executive:
- 7.3.1 to consider the report or recommendation;
  - 7.3.2 to respond to the committee indicating what (if any) action the Council or Executive 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 Councillor under Rule 6.6, to provide the Councillor 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 **Council** or **Executive** 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 order applies where an Overview & Scrutiny Committee makes a report or recommendation to the **Council** or the **Executive**, and the report or any of the recommendations relates to a local improvement target which 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.

## **Publication of Reports, Recommendations and Responses**

- 8.4 Where a report or recommendation of the Overview & Scrutiny Committee or response of the **Council** or the **Executive** is published pursuant to Rule 7.2 or 7.3.3), 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 **Executive** and the Overview & Scrutiny Committee as appropriate depending on the particular matter under consideration.

## **10 RIGHTS OF EXECUTIVE COUNCILLORS**

- 10.1 Subject to the provisions of the **Access to Information Procedure Rules**, Executive Councillors 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 The 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 **Executive Councillor**, 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 The 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 Members of the Public, stakeholders and Councillors 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 **Executive**, an individual **Executive Councillor** or a committee of the Executive, or a **key decision** is made by an officer with delegated authority from the **Executive**, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the registered Council Offices, normally within two working 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 working 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 key decision may be called-in for scrutiny by the Overview & Scrutiny Committee if the Chair of the Overview & Scrutiny Committee or any five **Councillors** submit a notice in writing to the **Monitoring Officer** within the call-in period giving reasons why the decision should be scrutinised. Key decisions made under joint arrangements may be called-in under the rules set out in those arrangements.
- 13.4 The **Monitoring Officer** shall then notify the decision-taker of the call-in. A meeting of the relevant Overview and Scrutiny Committee will be called on such date as the Monitoring Officer may determine, where possible after consultation with the Chair of the Committee, and in any case within 10 clear working days of the decision to call in, unless it is agreed by all relevant parties that the decision which has been called in may be scrutinised at the next scheduled meeting of the Overview & Scrutiny Committee. The relevant **chief officer** and/or **Executive Councillor** 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 five Councillors at least two of the call in Councillors **must** attend the meeting. Where 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 **Executive**) 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 **Council**. Matters should normally only be referred to **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 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 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 **Council** and the 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 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 **Council** will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- 13.11 If the **Council** does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.

## **14 CALL-IN AND URGENCY**

- 14.1 The call-in procedure set out above shall not apply where the decision being taken by the **Executive** 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 Members of the Public of the Cumberland area. 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 Chair of the 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 **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 **Monitoring Officer**, and a report submitted to **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 COUNCILLOR CALL FOR ACTION**

- 15.1 Any Councillor may submit a Councillor's Call for Action using the appropriate form. The Councillor Call for Action is intended to be a process of last resort and therefore a councillor must first take reasonable steps to resolve the matter and may be asked to evidence this, for example by producing a response from the Leader or appropriate Executive Councillor and the Head of Paid Service or their nominee. The Councillor Call for Action will be placed on the agenda of the relevant Overview and Scrutiny Committee. 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 The 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 Executive to reports of the Overview & Scrutiny Committee;
  - 16.1.5 Councillor's Call for Action; and
  - 16.1.6 the business otherwise set out on the agenda for the meeting.

- 16.2 Where the 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 **Executive** and/or **Council** as appropriate and shall make its report and findings public.

## Part 3 – Section 6 – Finance Procedure Rules

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## 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 **Assistant Director of Finance** 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 Financial Procedure Notes (FPN’s), Codes of Practice and other financial instructions (eg 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 Financial Procedure Rules.
6. Failure to observe Financial Procedure Rules, Financial Procedure Notes, Codes of Practice and financial instructions issued under Financial Procedure Rules, may result in action under the Council’s disciplinary procedures.
7. All **Directors** should ensure that any financial procedures/guidelines produced by their Directorate in support of financial control are fully compliant with these Financial Procedure Rules, Financial Procedure Notes, Codes of Practice and financial instructions.
8. These Financial 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 Financial 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 Financial Procedure Rules to the Council and/or to the **Executive Councillors**. The Chief Finance Officer is authorised to temporarily suspend Financial Procedure Rules in exceptional circumstances, and where such a suspension is authorised, a written record shall be kept of the reasons for this.

**NOTE:** The financial regulations do not apply to schools.

## **FPR1 – RESPONSIBILITIES**

### **Responsibilities to the Council**

- 1.1. All councillors and officers 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 Councillors and Officers 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 themselves of the Council's requirements under these Financial Procedure Rules. If anyone is in any doubt as to their obligations, then they should seek advice from the Chief Finance Officer who shall have responsibility for interpreting the Rules.
- 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 suspect 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 in accordance with the Council's Confidential Reporting policy. In such circumstances managers must record and investigate such reports, after taking advice and guidance from the Council's Human Resources team. 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 "**1988 Act**") requires the Chief Finance Officer to report to the full Council, the Executive and the 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 or members of staff to deputise should they be unable to perform the duties under section 114 personally;
- 1.6.2 the Council 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.

### **Director of Business Transformation and Change**

- 1.9 The Director of Business Transformation and Change, as the Director with responsibility for human resources, in consultation with the Chief Finance Officer shall ensure:
  - 1.9.1 all employees are paid in accordance with their Contract of Employment, and ensure leavers are removed from the payroll; and
  - 1.9.2 reimbursement and level of allowances and expenses to staff and members is in accordance with the appropriate agreements, policies and legislation.

### **Directors**

- 1.10 Directors are responsible for ensuring that Finance Procedure Rules are observed throughout all areas under their control and shall:
  - 1.10.1 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;
  - 1.10.2 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;
  - 1.10.3 ensure that Executive Councillors are advised of the financial implications of all significant proposals and that the financial implications have been agreed by the Chief Finance Officer;
  - 1.10.4 inform the Chief Finance Officer of failures of financial control resulting in additional expenditure or liability, or loss of income or assets;
  - 1.10.5 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, appropriate Executive Councillors and the Director of Business Transformation and Change; and

- 1.10.6 ensure the legality of their Directorate's or service's actions.
- 1.11 All Directors should ensure that any financial procedures/guidelines produced by their Directorate in support of financial control are fully compliant with these Financial Procedure Rules, Financial Procedure Notes, Codes of Practice and financial instruction.
- 1.12 Directors are responsible for ensuring that all staff in their Directorate are aware of the existence and content of the Council's Financial Procedure Rules and other internal regulatory documents and that they comply with them.

## FPR2 – FINANCIAL PLANNING AND ANNUAL ESTIMATES

- 2.1 The Chief Finance Officer shall, each year, recommend to the **Executive** a programme for consideration of revenue and capital estimates by Directorates, the Executive 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 Executive 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 Directors in the form required by the Executive. The Estimates will be in line with the Council Plan and the 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 Director in accordance with the agreed programme in order that they can be examined and submitted to the Executive.
- 2.3 The Executive 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 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 Executive 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 Director shall, in accordance with the agreed programme and in conjunction with the Chief Finance Officer prepare revenue estimates forecasts for consideration by the Executive. In doing so each Director 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 Executive 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, Directors 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 The Council's Contract Procedure Rules have been complied with;
  - 2.11.3 The expenditure is within the approved revenue budget or capital programme provision; and
  - 2.11.4 the expenditure is consistent with Council policy.
- 2.12 Nothing in these Rules shall prevent a Director incurring expenditure which is in their opinion 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 Executive and, where appropriate, to Council.
- 2.13 The Executive shall exercise control over revenue spending and income and may authorise variations to the Council's **Budget** within the year in accordance with the approved Scheme of Virement.
- 2.14 To enable the Executive to exercise control over revenue spending, the Chief Finance Officer shall report to Executive on a quarterly basis a comparison of revenue expenditure and income against budget (**Quarterly Monitoring Report**) and on a monthly basis to Senior Leadership Team.
- 2.15 Each Director 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 Executive 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 Directors must fulfil the following requirements to exercise virement:
- 2.17.1 the **virement** should only apply to the transfer of funds within the delegated budget of the Director;
  - 2.17.2 the proposals should be consistent with approved Council policy;
  - 2.17.3 the virement should not involve the transfer of funds between directorates;
  - 2.17.4 the virement should only be allowed where the total net delegated budget is still within the delegated costs limit; and
  - 2.17.5 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 The delegated limits are as follows:
- 2.19.1 Sums up to and including £250,000 (revenue or capital) may be vired upon the approval of the relevant Director in consultation with the Chief Finance Officer.
  - 2.19.2 Sums over £250,000 and up to and including £500,000 (revenue or capital) may be vired upon the approval of the Executive on the recommendation of the relevant Director and advice of the Chief Finance Officer.
  - 2.19.3 For sums over £500,000 (revenue or capital) the approval of the Council is required on the recommendation of the Executive.

Should the limits and provisions detailed above conflict in any way with those set out in the Budget and Policy Framework those rules set out in the B&P framework shall prevail.

### **Capital Programme Development**

- 2.20 Each Director, in conjunction with the Chief Finance Officer, shall draw up proposals for capital expenditure for their Directorate, taking into account:
- 2.20.1 statutory requirements;
  - 2.20.2 service plans;
  - 2.20.3 supported capital expenditure guidelines issued by Central Government including available resources;
  - 2.20.4 Government and other funding body capital grants and specific borrowing approvals, availability of capital receipts, other resources - including internal resources; and
  - 2.20.5 level of existing capital commitments.
- 2.21 The Director 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.
- 2.22 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 Executive for determination of the Capital programme subject to resources being available.
- 2.23 Where new projects are brought into the programme and are funded from external grant for a specific purpose Executive can approve the scheme to be included in the capital programme.

### **Capital Programme Monitoring and Budgetary Control Arrangements**

- 2.24 The Executive shall exercise control over capital spending and resources and may authorise variations to the Council's Capital Programme provided such variations:
- 2.24.1 are within available resources and
  - 2.24.2 are consistent with Council policy.
- 2.25 To enable the Executive to exercise control over capital spending, the Chief Finance Officer will report to the Executive quarterly with a review of the latest Capital Programme position.
- 2.26 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 Director that will impact on another Director's Directorate, a full consultation process must be completed before expenditure is incurred.
- 2.27 Directors shall:



- 2.27.1 make arrangements for the implementation of the agreed Capital Programme in accordance with the Contract Procedure Rules;
  - 2.27.2 monitor progress of spending and realisation of funding against the Capital Programme; and
  - 2.27.3 review and update costings and phasing of projects and programmes as appropriate.
- 2.28 In the event that project costs are at variance with programme, either in terms of cash flow or in total, the Director 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 Director is responsible.
- 2.29 The Chief Finance Officer must be consulted where significant variances to the Capital Programme are anticipated. Should the Director be unable to accommodate variations in expenditure within the approved Capital Programme, sums up and including £250,000 may be vired between schemes upon approval of the relevant Director following consultation with the Chief Finance Officer. Virements between schemes over £250,000 and up to and including £500,000 will require the approval of the Executive and virements over £500,000 will require the approval of Council; all subject to appropriate resources being available.
- 2.30 Where there is a requirement for reprofiling between financial years (including accelerated spend or slippage) this will be reported to the Executive as part of the quarterly monitoring reporting and approved by the Executive 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**

- 2.29 Section 25 of the Local Government Act 2003 places a duty on the Chief Finance Officer (section 151 Officer) 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.
- 2.30 The Executive 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 Executive.
- 2.31 Request for earmarked reserves will be submitted by Directors to the Chief Finance Officer for consideration before recommending to Executive.
- 2.32 Whenever requested and, in any event, always at the financial year end Directors 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 Executive and Council.

- 2.33 Transfers from contingencies to revenue budgets require the approval of the Chief Finance Officer.

### **Community Panel Budgets**

- 2.34 Each Community Panel will be delegated appropriate budgets as approved by the Executive 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 Executive.

## **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 Director 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 shall consult with the Director 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 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 Chief Finance 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.

## **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 and in line with the CIPFA Code of Practice for Internal Audit under the independent control and direction of the Chief Legal Officer with reference to the Chief Finance 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, Monitoring Officer, Chief Executive and the Chair of 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 Monitoring Officer, Directors and the Audit Committee, and will have an unrestricted range of coverage of the Council's and associated Local Authority 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 or agreements with third parties, including Local Authority Controlled Companies and where the Council is the Lead or Accountable Body.
- 4.8 Directors shall ensure that these rights of access are written into the appropriate agreements with these organisations.
- 4.9 All material findings will be communicated to the relevant Directorate management and, once agreed, a final report will be sent to the Director and, where appropriate, the Chief Finance Officer. The Council's Senior Leadership Team is expected to implement all agreed audit recommendations within a reasonable timeframe and Internal Audit will undertake appropriate follow up work in this regard.
- 4.10 The Council's Head of Internal Audit, in consultation with the Monitoring Officer and Chief Finance Officer, shall:
  - 4.10.1 provide an annual opinion to the Audit Committee on the soundness of the Council's overall internal control arrangements;
  - 4.10.2 report material failures of financial control to the Chief Finance Officer, the Chair of the Audit Committee and the appropriate Portfolio Holder and Director; and
  - 4.10.3 where evidence of fraud, misappropriation or theft is discovered, decide, after consultation with the Monitoring Officer, Chief Finance officer and relevant Director(s), whether to refer the matter to the Police.
- 4.11 Each Director shall:
  - 4.11.1 respond without undue delay to any enquiries or recommendations made by the Head of Internal Audit.
  - 4.11.2 inform the Head of Internal Audit as soon as possible of failures of financial control, including matters which involve, or may involve, financial irregularity.
- 4.12 The Head of Internal Audit and each Director jointly shall investigate failures of financial control, including matters which involve, or may involve, financial irregularity.
- 4.13 If serious irregularity is confirmed the matter shall be reported to the Chief Executive, Audit Committee, Monitoring Officer, the appropriate Director and, where staff are involved, the Director of Business Transformation and Change.

## **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 relevant Director 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 form approved by them. All income due to the Council shall be collected by the Chief Finance Officer, subject to any other arrangements made by him/her. The basis and level of fees and charges must be reviewed by Directors on, at least, an annual basis, and new charges must be approved by the Executive.
- 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 Directors introduce new fees and charges, or a change in policy, such charges shall be referred to the Executive for approval.
- 5.4 All sums received by either:
  - 5.4.1 Cashier; or
  - 5.4.2 other person/ third Party authorised by a Director to collect sums due to the Councilshall 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 they 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 All monies received shall be banked as soon as practicable, all insurance limits on safes shall be adhered to and all cash/ cheques shall be banked no later than one week after receipt.
- 5.9 Where an agreed collection schedule is arranged with a third-party collecting sums on behalf of the Council, Directors must ensure, by liaison with the Council's Insurance Officer, 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.
- 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 Directors 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) 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. Directors 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.

### **Revenues and Taxation**

- 5.21 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 prescribed changes 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 Maintaining 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 Directors will provide the Chief Finance Officer and/or the Monitoring Officer with all information required for the collection of debts. The Monitoring Officer, after consultation with the relevant Director, has responsibility to institute, defend, settle or compromise claims as they consider appropriate on behalf of the Council.
- 5.25 Directors 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. Directors will keep records of all write of debt in a form approved by the Chief Finance Officer.
- 5.26 Directors, in consultation with the Chief Finance Officer and Monitoring Officer have responsibility to write off debts up to the value of £5000 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.
- 5.27 The Chief Finance Officer may approve the write off of debts in respect of a), b) and c) above up to the value of £25,000 or with the approval of the Executive over the value of £25,000.
- 5.28 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.
- 5.26 Audit Committee will be informed annually and Executive will be informed quarterly of debts in excess of £25,000 that have been written off for accounts purposes.

## **VAT**

- 5.27 Directors will ensure that, where applicable, VAT is charged in calculating any income due in accordance with FPR5. Directors will seek advice on VAT from the Chief Finance Officer when required.
- 5.28 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.

## **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 electronic 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.

## **FPR7 – ORDERS FOR GOODS WORKS AND SERVICES**

*The objective of this Financial Procedure Rule is to ensure that work, 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 Director 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 Director or Executive approvals are obtained as necessary; and
  - 7.1.2. any necessary Director or Executive 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 relevant Director, authorised by them or one of their nominated officers.
- 7.3. Orders must be made in advance of receiving the goods or services, using the procedure or system 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 Director or designated Officer must assure themselves of the following:
  - 7.7.1. prices are in accordance with the agreement, any price list provided by the Council's Procurement team, 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; and
- 7.7.5. the order is approved by a nominated officer;
- 7.8. Notification of goods/services received or amendments to orders eg 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.

## 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 Director 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 the Council's Procurement team, 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 Director, 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 Directors.
- 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 Director shall as soon as possible after 31<sup>st</sup> 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, Directors 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 Directors on all taxation issues (excluding payroll) that affect the County Council, having regard to guidance issued by appropriate bodies and relevant/applicable legislation.
- 8.9. The Director with responsibility for payroll is responsible for ensuring that appropriate advice is available to Directors 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.



## **FPR9 – PAYMENT OF EMPLOYEE RELATED EXPENSES**

*The objective of this Financial Procedure Rule is to ensure that staff are appointed in accordance with the Council's Codes of Practice 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 with responsibility for payroll or under arrangements approved by them together with the Chief Finance Officer.
- 9.2 The Council will keep data for each employee 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 Director shall notify the Director of Business Transformation and Change in the form prescribed, of all matters affecting the payment of emoluments, and in particular:
  - a. appointments, resignations, dismissals, secondments and transfers;
  - b. absences from duty for sickness or other reason, apart from paid leave;
  - c. changes in remuneration including normal increments and pay awards and agreements of general application;
  - d. information necessary to maintain records of service for superannuation, income tax, national insurance etc; and
  - e. 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 Business Transformation and Change and shall be duly certified by a nominated officer.
- 9.5 Each Director shall be responsible for the submission of the relevant documents within an approved timetable to enable the Director of Business Transformation and Change to make payments by the due dates.
- 9.6 On a regular basis the Director shall be provided by the Director of Business Transformation and Change with a selected list of staff currently paid within their Directorate and the rate at which they are currently being paid. The Director 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 Business Transformation and Change is responsible for maintaining appropriate systems and records, to ensure that a proper allocation of those costs, deductions and related employer's contributions and payments can be provided as required by the Chief Finance Officer for updating Council's corporate financial systems.

## **FPR10 –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 petty cash use. No person may overdraw on this account.
- 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 All income received must be 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 advanced to them.
- 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 Directors to the Chief Finance Officer and updated on a regular basis.
- 10.7 Petty cash re-imburement claims should be correctly coded and authorised for payment by a nominated officer.

## **FPR11 – RISK MANAGEMENT AND INSURANCE**

*The objective of this Financial Procedure Rule is to ensure that the Council manages potential strategic and operational risks and liabilities and to limit the authority for arranging insurance cover to the Chief Finance Officer.*

- 11.1 The Executive is responsible for approving the Council's risk management strategy and strategic risk assessment and for ensuring that proper insurance cover exists where appropriate.
- 11.2 The Senior Leadership Team will update the corporate risk register on a quarterly basis. The Chief Finance Officer is responsible for preparing the Council's Risk Management Strategy and Directors are responsible for promoting and implementing the risk management strategy throughout the Council.
- 11.3 It is the responsibility of each Director to assess annually all risks within the areas under their control, and to record them in an annual risk management plan.
- 11.4 All risks will be recorded in the corporate 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 Senior Leadership Team and the Executive. 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 Director shall be responsible for identifying, assessing and controlling risks within their Directorate and will undertake an annual review of Directorate risk in consultation with the Chief Finance Officer.
- 11.9 The Chief Finance Officer shall ensure that 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. Directors 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 relevant Director shall identify a budget.
- 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. Directors 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. Directors shall ensure that the Insurance Section are notified of such persons.
- 11.12 Directors shall require approval of the Chief Finance Officer and the 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 Directors may wish to arrange on behalf of other parties.
- 11.14 Directors 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.

## **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 shall be made by the Chief Finance Officer and are in the name of Cumberland 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 the Executive and 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 the Executive for approval, and as appropriate to Council.
- 12.5 The Chief Finance Officer may vary the Council's lending list following advice from Treasury advisers. Any changes will then be reported to the Executive as part of the quarterly monitoring report 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.

## **FPR13 – REIMBURSEMENT OF EXPENSES AND PAYMENT OF ALLOWANCES**

*The objective of this Financial 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 car allowances shall be submitted at monthly intervals to the Director of Business Transformation and Change in approved form, duly certified by the Director 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 Directors who are entitled to claim travelling and subsistence allowance will be made by or on behalf of the Director of Business Transformation and Change 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 Inland Revenue.
- 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 Business Transformation and Change .
- 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 Executive 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 Business Transformation and Change.

## **FPR14 – SECURITY AND CONTROL OF ASSETS**

*The objective of this Financial 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 on land and property.
- 14.2 The Monitoring Officer shall have custody of all title deeds of land and property owned by the Council and be responsible for their security, and 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 Monitoring Officer is designated as Senior Information Risk Officer (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 Director 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 Director 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 of all stores, other than small value materials, shall 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 Director 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 Directors 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 Director 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'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 Director of Resources as Corporate Landlord.

- 14.12 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.

- 14.13 The Council takes a Corporate Landlord approach to the ownership and management of its operational property assets (excluding highways, for which the Director of Place Sustainable Growth and Transport 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.

- 14.14 In this way the Corporate Landlord approach:

14.14.1 enables the Council to utilise its assets to deliver better, more efficient services to our communities;

14.14.2 unlocks the value of assets, seeks efficiencies through joint arrangements with our public sector partners and maximises private sector investment;

14.14.3 ensures the provision of a consistent, corporate and strategic approach to the management of the Council's property portfolio; and

14.14.4 Supports the delivery of the Asset Management Plan.

### **Inventories**

- 14.15 Inventories shall be maintained by all Directors 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.

- 14.16 Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council.



- 14.17 Each Director is responsible for making checks of such inventories not less than once per year.
- 14.18 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 Director concerned.
- 14.19 Inventory items found to be obsolete or in excess of requirements shall be disposed of in such a way as is appropriate having regard to the type of item and to the Council's policies. Such disposals exceeding £1000 shall be subject to the approval of the CFO.

## **FPR15 – PAYMENT OF GRANTS AND BENEFITS, AND ASSISTANCE THROUGH LOAN OR GUARANTEE**

*The objective of this Financial 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 the Contract Procedure Rules are applied where appropriate.
- 15.2 Prior to the award of a grant, Directors 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 Monitoring officer.
- 15.4 The approval of Executive must also be sought before Directors 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 outwith the approved budget
- 15.5 Each Director 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 Director 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, Directors 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.

## **FPR16 – RECORD OF CONTRACTS FOR CAPITAL WORKS**

- 16.1 Each Director 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 Director 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.

## **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, Directors will ensure that in advance of such arrangements that legal (from the 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.

### **Partnerships**

- 17.5 The Executive is responsible for deciding whether or not to enter into partnership arrangements. In order to make the decision, the report must describe how the following minimum requirements have been or will be met:
  - 17.5.1 Business Case for participation (including risk assessment);
  - 17.5.2 What powers are proposed to be delegated to (i) the body and (ii) officers;
  - 17.5.3 Where the partnership is to be established by the Council the governing document appropriate to the legal structure of the partnership;
  - 17.5.4 Where the partnership is to be established by the Council, the operational arrangements; and
  - 17.5.5 Where the partnership is established by a third party, the governance arrangements of the partnership (which must in the opinion of the Director meet the standards required by the council).

### **Accountable Body arrangements**

- 17.6 The Executive is responsible for giving approval for 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.
- 17.7 The following are the minimum requirements for the Executive to make a decision about taking on accountable body responsibilities:

- 17.7.1 Terms of the funding agreement (where known);
  - 17.7.2 Description of arrangements for allocation of funding;
  - 17.7.3 Description of applicable financial and audit procedures;
  - 17.7.4 Risk assessment/management plan relevant to the Council acting as Accountable Body; and
  - 17.7.5 Recovery of costs incurred by the Council acting as accountable body.
- 17.8 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 Director together with the Chief Finance Officer to Executive 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 or bid for the funding is the responsibility of the Director after consultation with the relevant Portfolio Holder, Leader of the Council, Finance Portfolio holder and Chief Finance Officer.
- 17.9 Successful applications/bids will be reported to Executive 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 or 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 Director in consultation with the relevant Portfolio Holder, Leader of the Council, the Finance Portfolio holder and Chief Finance 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 Director, 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 Directors 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 paragraph 142 does 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 Executive 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 own aims and priorities, approved by the policy framework) unless the matter has first been properly evaluated, considered and approved.
- 17.15 If any Councillor or Officer is involved with an external organisation that is bidding for Council funding, they must declare their interest and withdraw from any and all involvement in the decision making process.
- 17.16 It is the responsibility of Directors, 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.
- 17.17 This section should be read in conjunction with the Council's Contract Procedure Rules.

## 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 The Council must have CPRs under section 135 of the Local Government Act 1972.
- 1.3 A glossary of key terms is at section 8 of these CPRs
- 1.4 Responsible Officers of the Council ('officers' or 'responsible officers') must have regard to the Council's Procurement Cycle and guidance that supports this or any replacement of such Guidance from time to time in force. In these CPRs this is referred to as "the Guidance."

### 2 Scope of the CPRs

- 2.1 The CPRs apply whenever the Council is commissioning or procuring Supplies, Services or Works, or disposing of Assets.

#### Officer Responsibilities

- 2.2 Subject to any overriding legal obligation, officers must comply with the CPRs when commissioning and/or procuring Supplies, Services or Works, disposing of Assets and making decisions about these matters.
- 2.3 Officers 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.
- 2.4 Officers must ensure that any person or organisation acting on behalf of the Council within the scope of the CPRs also complies.
- 2.5 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.
- 2.6 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:
- 2.7 Officers must comply with the **Officers' Code of Conduct** when conducting procurement
- 2.8 Officers must comply with section 117 of the Local Government Act 1972 by declaring in writing any personal interest in a contract to the Section 151 Officer.

- 2.9 Officers must not accept any gift or hospitality from any Candidate for any contract being procured by the Council and to do so is a disciplinary offence. Officers must inform the Monitoring Officer if offered a gift or hospitality during a tender process.

### **Application of these CPRs**

- 2.10 These CPRs apply to all Relevant Contracts. A Relevant Contract is any arrangement, including Framework Agreements and other arrangements permitted under The Regulations, made by or on behalf of the Council for the carrying out of Works or for the supply of Supplies or Services, or the disposal of an Asset, unless the arrangement is subject to an Exception in these Rules - see section 2.14 below.
- 2.11 A Relevant Contract includes a contract for the appointment of consultants.
- 2.12 A 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 Rules.
- 2.13 Local Authority Maintained Schools are expected to comply with these CPRs.

### **Exceptions to these CPRs**

- 2.14 The CPRs **do not** apply to the following arrangements, to the extent that this complies with the law:
- 2.14.1 Contracts of employment which make an individual a direct employee of the Council.
  - 2.14.2 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.
  - 2.14.3 Grants which the Council may receive or award, except as otherwise provided in the CPRs.
  - 2.14.4 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.
  - 2.14.5 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.
  - 2.14.6 Contracts with a third party where sections 184 and 278 of the Highways Act 1980 apply.
  - 2.14.7 Contracts for representation by a lawyer in arbitration, conciliation, or judicial proceedings; legal advice given by a lawyer in the preparation of any such proceedings, or where there is a clear indication and high probability that the matter will become subject of proceedings and any other legal services which are exempt from the Regulations
  - 2.14.8 Contracts for financial services in connection with the issue, sale or transfer of securities or other financial instruments within the meaning of EU Directive 2004/39/EC as amended from time to time.



For the purposes of paragraphs 2.14.4 and 2.14.5 contracts are only exempt from these CPRs if the aggregate value of contracts awarded to a single provider does not exceed the relevant Procurement Regulation Threshold.

- 2.15 In addition to the above, the CPRs do not apply to:
- 2.15.1 contracts below the relevant Procurement Regulation threshold which are required in circumstances of extreme emergency such as an immediate danger to life or property and
  - 2.15.2 contracts above the relevant PCR105 threshold which are procured using the negotiated procedure without prior publication under Regulation 32 (2) (c) of the Regulations, except insofar as to require compliance with the Regulations.

In both these circumstances relevant Directors are authorised to take appropriate action and must report such action and the expenditure incurred to the next meeting of the Executive.

### **3 Record Keeping**

- 3.1 The Responsible Officer must keep records pertaining to the procurement of any Relevant Contracts, including any contract for which an Exemption (see above) has been approved.
- 3.2 Where the Total Value of the Relevant Contract is less than £50,000 the following records **must** be kept for the contract:
- 3.2.1 A unique reference number for the contract, the title of the contract and the parties;
  - 3.2.2 The method for obtaining quotes or tenders;
  - 3.2.3 Criteria for the award of the contract;
  - 3.2.4 The Contracting Decision and the reasons for it;
  - 3.2.5 Records of all communications with the Candidates; and
  - 3.2.6 The Contract.
- 3.3 Where the Total Value of the contract is £50,000 or more the following records **must** be kept in addition to those specified above:
- 3.3.1 Business case (including details of pre-tender market research, options appraisal and risk assessments);
  - 3.3.2 Tender documents sent to and received from Candidates;
  - 3.3.3 The records of the evaluation of the tender;
  - 3.3.4 Records of all clarification and post tender discussion (including minutes of any meetings); and
  - 3.3.5 Record of consideration of the public sector equality duty, the (Public Contracts) Social Value Act 2012 and consultation.
- 3.4 The above records required under this Rule must be retained in compliance with the **Council's corporate document retention policy**.
- 3.5 In addition to the above requirements, within 30 days of award of the 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:

- 3.5.1 Start date and duration of the contract;
- 3.5.2 Supplier;
- 3.5.3 Title of the contract;
- 3.5.4 Any contractual provision for extension; and
- 3.5.5 Internal contact name and email address

- 3.6 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 Procurement Team.

#### **4 Key Decisions**

- 4.1 The decision to commence a procurement exercise is a Key Decision where 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 more than one ward of the Council.
- 4.3 The decision to award a Relevant Contract is a Key Decision where the total value of the contract exceeds the financial threshold for a Key Decision. The award of a Relevant Contract which is a Key Decision must adhere to the Access to Information Procedure Rules relating to Key Decisions.

#### **5 Steps Prior to Procurement**

##### **Common Requirements**

- 5.1 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.
- 5.2 Subject to 5.1 the Responsible Officer may use any appropriate procurement procedure which is permitted by these CPRs or by The Regulations. Where The Regulations apply, the Responsible Officer must use a procurement procedure which complies with The Regulations, seeking advice from the Assistant Director Procurement.
- 5.3 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 contract requires prior consultation under the "best value" requirements of the Local Government Act 1999 or for any other reason.
- 5.4 The Responsible Officer must consider whether, and if so how, social, economic or environmental issues could be addressed through the 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 contract.

## **Market Consultations**

- 5.5 Before commencing a procurement exercise, 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.
- 5.6 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 Procurement, must be sought before seeking advice from anyone who may have a commercial interest in the contract to which the procurement exercise relates.

## **Approved Lists**

- 5.7 Approved Lists are lists of suppliers who meet the Council's minimum technical and financial standards for the types of contract.
- 5.8 The Assistant Director Procurement, following consultation with the 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.
- 5.9 Any request for approval must specify:
  - 5.9.1 The business case for establishing an Approved List;
  - 5.9.2 The proposed duration of the Approved List;
  - 5.9.3 The maximum spend using the Approved List; and
  - 5.9.4 The method of procurement of and from the Approved List.
- 5.10 In line with 'Identifying Potential Contracts' rule 6.4 below, all Approved Lists must be openly advertised to potential suppliers and must remain open for their duration to permit new suppliers to join.
- 5.11 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**

- 5.12 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.
- 5.13 Where an internal Framework is established with a Total Value exceeding the Procurement Threshold the Regulations must be followed to establish the Framework Agreement and the maximum term of the Framework Agreement may not exceed four years, except in exceptional circumstances, following consultation with the Assistant Director Procurement and the Monitoring Officer, with full reasoning for the

recommendation provided in the report seeking authorisation to start a procurement exercise.

### **Collaborative Procurement Arrangements**

- 5.14 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.
- 5.15 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 Regulations apply the collaborative agreement must comply with them, the Council must be among the bodies named in the Find a Tender/OJEU 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**

- 5.16 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.
- 5.17 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.
- 5.18 Before the Council agrees to enter into a 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.
- 5.19 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**

- 5.22 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 contract in order to estimate the Total Value.
- 5.23 If during the term of the contract it appears that the estimated Total Value may be exceeded by anticipated further renewals of the contract, the officer responsible for managing the contract must refer the matter to the Director of Business Transformation and Change who must review the position in consultation with the Monitoring Officer.

### **Exemptions from these CPRs**

- 5.24 The Director of Business Transformation and Change is authorised to approve Exemptions from the CPRs, following consultation with the Monitoring Officer.
- 5.25 The Director of Business Transformation and Change may not approve a request for an Exemption that would result in a breach of the Regulations in respect of a contract to which the Regulations apply.
- 5.26 The Exemption must be approved before any alternative procedure not wholly in accordance with these CPRs is followed.
- 5.27 The request for Exemption must state from which of the requirements of the CPRs Exemption is requested and give reasons for the request.
- 5.28 Examples of circumstances in which it may be appropriate to request an Exemption include but are not limited to:
- 5.28.1 Supplies of goods where the Council's best interests will be served by purchase through auction and the Corporate Director has agreed an upper limit for bids.
  - 5.28.2 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.
  - 5.28.3 The Council's need for the Supplies, Services or Works is so urgent that compliance with these Rules would in the judgement of the Corporate Director prejudice the Council's interests. (Rule 2.15 automatically dis-applies these CPRs in circumstances of extreme emergency such as an immediate danger to life or property).
- 5.29 The Director of Business Transformation and Change will keep a record of all Exemptions approved.

### **Authorisation to Start Procurement**

- 5.30 The persons or bodies authorised to approve the start of a procurement exercise are set out in the table below:

<b>Estimated Total Contract Value</b>	<b>Decision Maker</b>
£0 - £1,000,000	Relevant Director
£1,000,001 - £5,000,000	Relevant Executive Councillor
£5,000,001 and above	Executive
Contracts the budget for which has been wholly included in the approved Capital Programme	Relevant Director

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, etc.) have been approved by the Assistant Director with commissioning responsibility in respect of the contract.

## **6 Procurement of Contracts**

### **Common Requirements**

- 6.1 In conducting any procurement exercise, the Council must treat all Contractors equally and without discrimination and must act in a transparent and proportionate manner.
- 6.2 Electronic procurement using the e-tendering portal must be used for all tenders and quotations unless authorisation to use an alternative method has been given by the Director of Business Transformation and Change.
- 6.3 The Responsible Officer must consult the Procurement Team on the appropriate procurement procedures. The Responsible Officer must have regard to the Guidance given.

### **Identifying Potential Candidates**

- 6.4 Where a Relevant Contract is being procured the minimum procurement process and rules for inviting Candidates are as follows. The table is subject to the requirement that a contract of any value which is likely to have "cross - border" interest (i.e. to be of interest to Contractors in other Councillor states) in the European Community must be advertised.

<b>Estimate Total Contract Value</b>	<b>Minimum Process</b>	<b>Method of invitation</b>
Up to £2,000	Responsible Officer must use a process which obtains best value for money	One oral quotation (confirmed in writing where the quotation exceeds £500)
£2,001 - £50,000	2 written quotations	Invitation to submit a quotation in writing to at least 2 candidates

£50,001 - £100,000	3 written quotations	Invitation to submit a quotation in writing to at least 3 Candidates
Exceeding £100,000 but below relevant Procurement Threshold	Written Tender	Open advertisement of contract appropriate to the relevant market
Procurement Threshold and above	Written Tender	Open advertisement of the contract in accordance with the Regulations
"Call offs" from relevant framework or Collaborative agreement Procurement from an Approved List	In accordance with the terms of the Framework Agreement, Collaborative agreement or Approved List	In accordance with the terms of the Framework Agreement, Collaborative agreement or Approved List
Contracts the budget for which has been approved in the Capital Programme	Quotes or Tenders as described above depending on the estimated Total Value; or Call off from an approved a Framework Agreement/Collaborative agreement	As appropriate to the procurement method used
Establishment of an Approved list	In accordance with the terms of approval under rules 5.7 to 5.11	

6.5 Where a contract with a value above £25,000 is advertised the Responsible Officer must also publish information on Contract Finder in accordance with the procedure in Part 2 Chapter 8 of the Regulations, before it is advertised anywhere else. The responsible officer should provide the relevant details to the Procurement Team prior to advert to ensure this is complied with.

### **Selection and Award Criteria for Tenders**

- 6.6 The Responsible Officer must use appropriate criteria to select Candidates (where a two- stage tender process is used) and award the contract. Where the Regulations apply, these must comply with the Regulations.
- 6.7 The Responsible Officer must ascertain the standards necessary to properly define the subject matter of the contract, having regard to any relevant British, European or international standards. The Procurement Team must be consulted if it is proposed to use any standards other than European Standards.
- 6.8 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:
  - 6.8.1 Lowest Price;
  - 6.8.2 Highest Price: where payment is to be received by the Council); or
  - 6.8.3 MEAT (Most Economically Advantageous Tender): where considerations other than price also apply. This is the only award criteria permissible under the Regulations.

### **Invitations to Tender**

- 6.9 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 Director of Business Transformation and Change and Monitoring Officer and must not be considered in any circumstances if it is received after the other tenders have been opened.
- 6.10 All invitations to tender must include the following:
  - 6.10.1 A specification to describe the Council's requirements in clear sufficient detail to enable the submission of competitive offers.
  - 6.10.2 The 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.
  - 6.10.3 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 to any other party (except where the disclosure is made in confidence for a necessary purpose).
  - 6.10.4 A requirement for Candidates to complete fully and sign all tender documents including a form or tender and certificates relating to canvassing and non-collusion.
  - 6.10.5 Notification that tenders are submitted to the Council on the basis that they are compiled at the Candidate's expense.
  - 6.10.6 A description of the Award Procedure and unless defined in a prior advertisement a definition of the Award Criteria. Where the criterion of MEAT is used, it must be further defined by reference to sub-criteria which may only refer to considerations relevant to the award of the contract. Award criteria must be defined in objective terms and wherever possible in descending order of importance.



- 6.10.7 Unless the tender is sought in accordance with an electronic procurement process approved by the Procurement Team, a statement that tenders submitted by fax or other electronic means will not be considered.
- 6.10.8 A notice stating that the Council is not bound to accept any tender.
- 6.10.9 A notice stating that the Council is not obliged to enter into a contract as a result of a tender.

### **Contract Documents**

- 6.11 All Relevant Contracts must be in writing.
- 6.12 All Relevant Contracts must as a minimum specify in writing:
  - 6.12.1 The Works, Supplies or Services to be supplied.
  - 6.12.2 The price and when it will be paid, including any arrangements for additional expenditure, disbursements etc.
  - 6.12.3 The time or times within which the contract is to be performed.
  - 6.12.4 The provisions for the Council to terminate the contract.
  - 6.12.5 A clause prohibiting the Supplier from transferring or assigning, directly or indirectly, any portion of his/her contract without the 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.
  - 6.12.6 A clause empowering the Council to terminate the 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 contract, committed by a Supplier or one of his/her employees or agents
  - 6.12.7 A clause providing for payment of undisputed invoices within 30 days by the Council, Contractors and Sub-Contractors which complies with Regulation 113 of the Regulations
  - 6.12.8 For Contracts procured using the Regulations any specific terms required to be included in the Contract under the Regulations.
- 6.13 All transactions must use an appropriate form of contract approved by a suitably qualified officer in Legal Services.
- 6.14 Legal Services must be instructed prior to the start of a tender exercise to produce an appropriate form of contract where:
  - 6.14.1 The Total Value exceeds £100,000; or
  - 6.14.2 The arrangement is for leasing arrangements; or
  - 6.14.3 The Responsible Officer is proposing to use a Contractor's own terms; or
  - 6.14.4 The contract is unusual or complex in any other way (in the opinion of Legal Services).
- 6.15 Legal Services 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.

### **Bonds and Parent Company Guarantees**

- 6.16 The Responsible Officer must in consultation with the Chief Finance Officer determine whether any additional security such as a bond or parent company guarantee may be required from the contractor who is awarded the contract. If additional security may be required, this must be highlighted in the tender documents, using an appropriate form of words approved by Legal Services.

### **Shortlisting**

- 6.17 Any shortlisting must have regard to the financial and technical standards relevant to the contract. For contracts above the Procurement Threshold the Regulations must be followed.
- 6.18 Where Approved Lists are used the Responsible Officer must shortlist in accordance with the shortlisting criteria approved for procurement from the Approved List.

### **Submission, Receipt, and Opening of Quotes or Tenders**

- 6.19 Candidates must be given an adequate period in which to prepare and submit a proper quotation or tender consistent with the complexity of the contract requirement and the law. Officers should have regard to policy commitments made in relation to procurement including the Third Sector Compact. Where the Regulations lay down minimum timescales these must be complied with.
- 6.20 The Responsible Officer is responsible throughout the procurement process for safeguarding its security, confidentiality and integrity.
- 6.21 The Responsible Officer is authorised to open tenders that have been received on the procurement portal or by other authorised electronic method.
- 6.22 Where the Responsible Officer is carrying out a procurement using a physical tender document, Officers must not disclose the names of Candidates to any staff involved in the receipt, custody or opening of tenders.
- 6.23 The Responsible Officer is responsible for the safe keeping of tenders where they are submitted in hard copy until the appointed time of opening. Each tender must be:
- 6.24 Suitably recorded so as to subsequently verify the date and precise time it was received.
- 6.25 Adequately protected immediately on receipt to guard against amendment of its contents.
- 6.26 Recorded immediately on receipt in a **Tender Receipt Log**.
- 6.27 The Responsible Officer must ensure that all tenders are opened at the same time when the period for submission has ended. Tenders must be opened in the presence of one officer independent of the Responsible Officer.
- 6.28 Tenders and quotations received after the specified closing date should be held unopened until the award has taken place. Once an award has taken place the Responsible Officer must inform the Candidate that their tender or quotation was disqualified for being received after the closing date or time.

## **Evaluation**

- 6.29 Apart from the debriefing required or permitted by these CPRs the confidentiality of tenders and quotations and the identity of Candidates must be preserved at all times.
- 6.30 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.
- 6.31 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the Candidate. A Candidate who has made an arithmetical error must be permitted to correct the error if they choose to. A Candidate who has made an error of omission must not be permitted to amend their tender and must be asked to confirm their tender or withdraw it.

## **Clarification of Tenders**

- 6.32 These CPRs permit officers to provide clarification in writing of an invitation to tender to potential or actual Candidates.
- 6.33 Where a Candidate raises a question about an invitation to tender any response should be provided to all Candidates provided that the anonymity of the Candidate who raised the query is protected.

## **Post Tender Discussions**

- 6.34 Discussion with Candidates 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 Director of Business Transformation and Change following consultation with the Monitoring Officer. Discussion must be conducted by a team of at least two officers.
- 6.35 Post tender discussion of a contract procured under the Regulations may only be undertaken on the grounds permitted in the Regulations.
- 6.36 Where any post tender discussion would result in a material modification to a Relevant Contract (including to the specification) the contract must not be awarded but must be re-tendered.

## **Authorisation to Award a Contract**

- 6.37 The Persons and bodies authorised to award Contracts are set out in the table below.

<b>Total Contract Value</b>	<b>Decision Maker</b>
£0 - £1,000,000	Relevant Director
£1,000,001 - £5,000,000	Relevant Executive Councillor

£5,000,001 and above

Executive except as provided below

Contracts the budget for which has been wholly included in the approved Capital Programme

Relevant Director

Utilities Contracts

Relevant Director

- 6.38 With the exception of Call Offs from Framework Agreements the award of any contract which is a Key Decision must include within the report to the decision maker the following information:
- 6.38.1 The price and details of the budgetary provision.
  - 6.38.2 The number of tenders received.
  - 6.38.3 The tendering process used.
  - 6.38.4 The award criteria.
  - 6.38.5 A risk assessment and risk management arrangements.
  - 6.38.6 TUPE implications.
  - 6.38.7 Recommendation of award.
  - 6.38.8 Contract monitoring and management arrangements.
  - 6.38.9 Any impact on the local economy, suppliers based in Cumbria and the third sector.
- 6.39 Where a number of similar 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**

- 6.40 Contracts for the instruction of counsel or the procurement of external legal advisers may only be awarded by the Monitoring Officer or a solicitor authorised by the Monitoring Officer to award such a contract.

### **Providing Services to Other Organisations**

- 6.41 Where a Director proposes to apply to provide services to another organisation Legal Services must be consulted about the terms and conditions on which the services are to be provided and regard had to the advice received.

6.42 As set out in **Part 5G 'Financial Standing Orders'** of this Constitution, any indemnity required to be provided by the Council must be approved by the Monitoring Officer and Section 151 Officer before a contract is entered into.

### **Notification of Award**

6.43 All contract award key decisions taken by Executive and Chief Officers are subject to scrutiny under the Council's procedures for call in set out in **Part 5C 'Overview and Scrutiny Procedure Rules'** of this Constitution.

6.44 The successful Candidate must be notified that 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.

6.45 Where the award of a contract or Framework Agreement is subject to the Regulations the procedures for notification of Candidates and a standstill period must be followed in respect of the award.

6.46 If an award decision is challenged in any way the Responsible Officer must not proceed with the award the contract and must refer immediately to Legal Services.

## **7 Contracts and Contract Management**

### **Contract Formalities**

7.1 Contracts must normally be completed as follows:

<b>Total Contract Value</b>	<b>Method of Completion</b>	<b>Authorised Officer</b>
£0 - £50,000	Signature	Officer authorised by relevant Director
£50,001 - £250,000	Signature by two officers Sealing (strategically or politically important contracts or those requiring a 12 year limitation period)	Officers authorised by relevant Director Officer authorised by the Monitoring Officer to witness the seal
£250,001 and above	Sealing	Officer authorised by the Monitoring Officer to witness the seal

- 7.2 Any arrangement which is strategically or politically important or requires the Council to have the benefit of a twelve year limitation period for taking legal action on the contract must be completed under seal regardless of value.

### **Nominated Sub-Contractors**

- 7.3 Where a sub-contractor or supplier is to be nominated by the Council to a main contractor the Responsible Officer must invite tenders for the nomination in accordance with these CPRs. The invitation to tender should include the requirement for the sub-contractor to enter into a collateral warranty in favour of the Council.
- 7.4 It must be a condition of the engagement by the Council of any person (not an employee of the Council) to supervise a contract that in relation to such contract he shall comply with the CPRs as if he were an officer of the Council.

### **Contract Management**

- 7.5 Directors are responsible for ensuring that all 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 contract.
- 7.6 For every 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 contract, to manage the contract.
- 7.7 In preparing the risk and contract management arrangements for a contract, and managing the contract, the Responsible Officer should follow the procedures set out in the Guidance.
- 7.8 Directors are responsible for identifying significant contracts in their Directorate and ensuring that they are maintained in a corporate register of significant contracts.
- Significant Contracts are defined as those few, but important contracts critical to the Council's business objectives, financial stability and/or reputation, such as:
- 7.8.1 contracts critical to the Council's delivery of statutory duties;
  - 7.8.2 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;
  - 7.8.3 contracts that, in the context of the Directorate budget and its ordinary contracts, are of significant value.
- 7.9 Directors are responsible for ensuring that Significant Contracts managed in their Directorate are regularly reviewed in their Management Team and for making an exception report with an action plan to the Senior Leadership Team on at least a quarterly basis.
- 7.10 The Chief Finance Officer is responsible for making a report at least annually to the Senior Leadership 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.

### **Modification of Contracts during their term**

- 7.11 On the application of a Director, the Director of Business Transformation and Change in consultation with the Monitoring Officer is authorised to approve modifications to contracts during their term. For the avoidance of doubt, a modification includes an extension to the term or any other variation to the contract that has been provided for in the terms and conditions.
- 7.12 Where the contract has been procured under the Regulations a contract may only be modified if the modification may be made under the Regulations and is made in compliance with the Regulations.
- 7.13 All modifications of contract must:
- 7.13.1 Be recorded in writing and a record retained in line in accordance with the **Corporate document retention policy**;
  - 7.13.2 Be signed or sealed in accordance with the terms of the contract. Modifications of contracts where the Total Value of the contract exceeds £100,000 must be referred to Legal Services.

## **8 Glossary of Terms used in CPRs**

Accountable Body	The arrangement whereby Cumberland 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 Cumberland 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 Public Contracts Regulations 2015
Candidate	Has the meaning given in the Public Contracts Regulations 2015.
Consultant	An individual or firm (not being a firm of solicitors or a solicitor or barrister) procured to provide professional services, including advice.
Contractor	Has the meaning given to the definition "economic entity" in the Public Contracts Regulations 2015
Contracts Register	Cumberland Council's database of contracts.

Procurement Threshold	The financial threshold at which contracts must be procured using the Regulations.
Exemption	A disapplication of the Contract Procedure Rules.
Framework Agreement	Has the meaning given in the Public Contracts Regulations 2015 (notwithstanding that a framework arrangement can be established for Supplies, Services and Works below the threshold applicable to the Regulations).
Procurement Guidance	Cumberland Council's <b>Commissioning/ Procurement Cycle and Process Mapping Guidance</b> (including relevant internal mini gateway review procedures, where required) or any replacement of such Guidance which is published on the Procurement section on the Council's intranet
Lead Body	The arrangement whereby Cumberland Council is the applicant and/or recipient of an external grant or other funding for a special purpose.
Partnership Arrangements	Non-contractual arrangements between Cumberland Council and one or more third parties to deliver common functions in collaboration with each other.
The Regulations	Means the Public Contracts Regulations 2015 as modified from time to time including by decisions of the Courts. For public concessions contracts Regulations means the Public Contracts Regulations 2006 as modified from time to time or replaced.
Relevant Contract	Any arrangement, including Framework Agreements made by or on behalf of Cumberland Council for the carrying out of Works or for the supply of Supplies or Services, or the disposal of an Asset, unless the arrangement is subject to an Exception in these Rules.
Responsible Officer	The Officer who has the lead responsibility for the commissioning, procurement and/or management of a Relevant Contract.
Services	Has the meaning given in the Public Contracts Regulations 2015
Social and Other Specific Services	Has the meaning given in the Public Contracts Regulations 2015
Supplies	Has the meaning given in the Public Contracts Regulations 2015



Tender Receipt Log	The formal record of tenders received by Cumberland Council.
Total Value	Is the financial value of a Relevant Contract as more particularly defined in the Public Contracts Regulations 2015 The Total Value of a Relevant Contract always includes the value of any modification to a Relevant Contract.
Works	Has the meaning given in the Public Contracts Regulations 2015

## Part 3 – Section 8 – Employment Procedure Rules

### 1 RECRUITMENT AND APPOINTMENT

#### Declarations

- 1.1 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.
- 1.2 Every Councillor and employee of the Council shall disclose any relationship known to them to exist between themselves and any person they know is a candidate for a designation or appointment by the Council.

#### Seeking support for appointment

- 1.3 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.
- 1.4 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.
- 1.5 In the case of a dispute under Rule 1.4 above about the status of a relationship in relation to an appointment, the Director for Business Transformation and Change will rule and such ruling will be applied.
- 1.6 The Director for Business Transformation and Change will ensure that the provisions of these Rules are reflected, as appropriate, in application forms or in any accompanying detailed procedures for each post, following advertisement.
- 1.7 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.

### 2 RECRUITMENT OF HEAD OF PAID SERVICES AND CHIEF OFFICERS

- 2.1 Where the Council proposes to appoint the **Head of Paid Service** or a **chief officer**, the Staffing Committee will act as the appointment panel.
- 2.2 The Assistant Director of HR&OD will, in consultation with the Chair of Staffing Committee:

- 2.2.1 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;
  - 2.2.2 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
  - 2.2.3 make arrangements for a copy of the statement mentioned in paragraph 2.2.1 to be sent to any person on request.
- 2.3 The appointment panel 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.
- 2.4 Where following the interviews the Committee is of the view that there is no suitable candidate, it will re-advertise the post.
- 2.5 No offer of an appointment or notice of dismissal in relation to the **Head of Paid Service** or a **Chief Officer** (as defined in Section 2(8) of the Local Government and Housing Act 1989) shall be given by the appointor or dismissor until:
- 2.6 the appointor or dismissor has notified the Monitoring Officer of the name of the person to be appointed or dismissed and any other particulars relevant to the appointment or dismissal;
- 2.7 the Monitoring Officer has notified each member of the Executive of:
- 2.7.1 the name of the person to be appointed or dismissed;
  - 2.7.2 any other particulars relevant to the appointment or dismissal which the appointor or dismissor has notified to the Monitoring Officer; and
  - 2.7.3 the period within which any objection to the making of the offer is to be made by the **Leader** on behalf of the **Executive** to the Monitoring Officer and
- 2.8 either:
- 2.8.1 the **Leader** has, within the period specified in the notice notified the Committee that neither s/he nor any other member of the **Executive** has any objection to the appointment or dismissal;
  - 2.8.2 the Monitoring Officer has notified the appointor or dismissor that no objection was received within that period from the **Leader**; or
  - 2.8.3 the appointor or dismissor is satisfied that any objection received from the **Leader** within that period is not material or is not well-founded.

### 3 **APPOINTMENT OF HEAD OF PAID SERVICE, THE MONITORING OFFICER AND THE CHIEF FINANCE OFFICER (S151 OFFICER)**

- 3.1 Where the Council proposes to appoint to the **Head of the Paid Service**, the **Monitoring Officer** or the **s151 Officer**, the Staffing Committee shall include at least one **Executive Councillor**.
- 3.2 Advertisement for the post of Head of the Paid Service must be made externally.
- 3.3 The **Council** shall, where there is no material or “well founded” objection made by any other member of Executive, be asked to approve the appointment of the Head of Paid Service, the Monitoring Officer and the s151 Officer following the recommendation of the Staffing Committee, and the Council must approve the appointment before an offer of appointment is confirmed.
- 3.4 Where the **Council** does not approve the recommendation of the Committee, it shall indicate how it wishes to proceed.
- 4 DISCIPLINARY ACTION - HEAD OF PAID SERVICE, THE MONITORING OFFICER AND THE CHIEF FINANCE OFFICER (S.151 OFFICER)**
- 4.1 A **Designated Statutory Officer** of the Council (the **Head of Paid Service**, the **Monitoring Officer** and the **Chief Finance Officer (S.151 Officer)** (a ‘DSO’) may not be dismissed by the Council unless the procedure set out in this Rule 4 has been complied with. Subject to this Rule 4, the Staffing Committee has delegated authority to take disciplinary action against a DSO and to dismiss Chief Officers who are not a DSO on disciplinary grounds.
- 4.2 Any proposal to dismiss the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer must be taken by Council following the recommendation of such dismissal by the Staffing Committee.
- 4.3 Where the Staffing Committee meets to consider the taking of disciplinary action against the Head of Paid Service or a chief officer, the Committee must include at least one member of the Executive.
- 4.4 In accordance with the Model Disciplinary Procedure in the JNC Handbook for Chief Executives, meetings shall be convened by the **Monitoring Officer** (in consultation with the Chair of the Staffing Committee) and the Monitoring Officer shall, in consultation with the Chair of the Staffing Committee, filter out and deal with allegations that are clearly unfounded, trivial or can best be dealt with under some other procedure. Where allegations involve the **Monitoring Officer**, this role shall be fulfilled by the Chief Executive.
- 4.5 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.
- 4.6 “Relevant independent person” 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.

- 4.7 Subject to Rule 4.5, the Council must appoint to the Independent Persons Panel such relevant independent persons who have accepted an invitation issued in accordance with Rule 4.2 in accordance with the following priority order:
- 4.7.1 a relevant independent person who has been appointed by the Council and who is a local government elector;
  - 4.7.2 any other relevant independent person who has been appointed by the Council;
  - 4.7.3 a relevant independent person who has been appointed by another authority or authorities
- 4.8 The Council is not required to appoint more than two relevant independent persons in accordance with Rule 4.4 but may do so.
- 4.9 The Council must appoint any Independent Persons Panel at least 20 working days before the relevant meeting.
- 4.10 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:
- 4.10.1 any advice, views or recommendations of the Independent Persons Panel
  - 4.10.2 the conclusions of any investigation into the proposed dismissal; and
  - 4.10.3 any representations from the relevant officer.
- 4.11 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.

## **5 DISMISSAL OF HEAD OF PAID SERVICE, THE MONITORING OFFICER AND THE CHIEF FINANCE OFFICER (S.151 OFFICER)**

- 5.1 Dismissal of the **Designated Statutory Officers** of the Council (the **Head of Paid Service**, the **Monitoring Officer** and the **Chief Finance Officer (S.151 Officer)** (the 'DSOs') 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 and Guidance as set out in the JNC Conditions of Service Handbook have been followed in this regard.
- 5.2 The decision to dismiss a DSO must be taken by the Council, following the recommendation of such dismissal by the Staffing Committee. The Committee when making such a recommendation must include at least one member of the Executive. Any decision to dismiss must be taken only after consideration of:
- 5.2.1 advice, views or recommendations from the Staffing Committee sitting as an Independent Panel;

5.2.2 the conclusions of any independent investigation into the proposed dismissal;

5.2.3 any representation from the Officer; and

5.2.4 any advice, views or recommendations from the Independent Persons Panel.

## **6 APPOINTMENT AND DISMISSAL OF OTHER CHIEF OFFICERS**

6.1 Subject to Rule 6.3, the appointment of a **chief officer** who is not a **DSO** will be determined by the Staffing Committee. When making the appointment, the Committee must include at least one **Executive Councillor**.

6.2 Subject to Rule 5.2, the dismissal of a **chief officer** is the responsibility of the Staffing Committee. The Committee when dismissing a chief officer must include at least one **Executive Councillor**.

6.3 The Director of Public Health and Communities is a joint appointment with the Secretary of State for Health and Social Care, and appointments and dismissals must be agreed with that office, acting through the Regional Director of the Office for Health Improvement and Disparities.

## **7 OTHER OFFICERS**

7.1 The function of appointment and dismissal of, and taking disciplinary action against, any officer other than the **Head of Paid Service** or a **chief officer** is the responsibility of the Head of Paid Service or their nominee, and, (save in respect of deputy DSOs as defined in Section 2(8) of the Local Government and Housing Act 1989), may not be discharged by Councillors. This is a requirement of the Local Authorities (Standing Orders) (England) Regulations 2001.

7.2 Any disciplinary action will be taken in accordance with the Council's Disciplinary Policy and Procedure, as adopted from time to time.

## **8 NO DIRECTIONS TO BE GIVEN TO PERSONS MAKING APPOINTMENTS OR TAKING DISCIPLINARY ACTION**

8.1 Save as specifically provided for elsewhere in these Rules, neither the **Council** nor the **Executive** or its Committees or Overview and Scrutiny meeting or an individual Councillor, nor any other person shall directly or indirectly:

8.1.1 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;

8.1.2 give directions about the taking of any disciplinary action in relation to a person in the paid service of the Council; or

8.1.3 otherwise interfere with the making of such an appointment or the taking of disciplinary action.

## Part 3 – Section 9 – Outside Bodies Procedure Rules

These Procedure Rules relate to those external organisations and partnerships (referred to as Outside Bodies) which have asked the Council to appoint an Elected Councillor (or suitable nominee) to them.

Elected Councillors are appointed by Cumberland Council to serve on a range of Outside Bodies. An “Outside Body” covers organisations such as;

- Trusts
- Voluntary Bodies
- Charities
- Community Associations
- Companies

For the avoidance of doubt, these Procedure Rules do not apply to appointments to Joint Committees/Authorities which are reserved to Council. Any appointments of Councillor in their personal capacity is also excluded from these Rules.

Service on Outside Bodies is an established part of a Councillor’s role. A Councillor appointed to an external body will be able to use their knowledge and skills both as a Councillor, and as a representative of their communities, to assist the organisation to which they are appointed, as well as the Council which they represent.

### 1. DETERMINATION OF OUTSIDE BODIES SUPPORTED:

- 1.1 The Monitoring Officer will maintain a list of all Outside Bodies to which the Council appoints an Elected Councillor.
- 1.2 A working group established by Council will review, and keep under review, the list of Outside Bodies and will make recommendations as to whether the Council should make/continue to make an appointment to those bodies. They shall ensure that there is no duplication between Outside Bodies.
- 1.3 The working group will also consider any new requests for representation and make recommendations as to whether or not the Council should be represented on that body.
- 1.4 Determination will be based on one or more of the following criteria being met:
  - 1.4.1 the proposed appointment is a statutory requirement;
  - 1.4.2 the proposed appointment is consistent with and will contribute to the aims and objectives of the Council’s corporate priorities; and/ or
  - 1.4.3 the proposed appointment will add value to the Council’s activities.
- 1.5 The working group shall categorise the Outside Bodies into the following categories of:
  - 1.5.1 Joint Committees/ Authorities: representation is required and appointment is reserved to Council
  - 1.5.2 Key Strategic Partnerships Participation: contributes to the Council’s strategic functions, priorities and community leadership role.



- 1.5.3 Community Partnerships: Participation is not necessary to fulfil strategic or key partnership role but, nonetheless, beneficial in terms of leading, engaging and supporting the community from Cumberland's perspective.
  - 1.5.4 Area/Ward Partnerships: Beneficial in terms of leading, engaging and supporting the community from a ward perspective.
  - 1.5.5 Bodies which do not meet the criteria for representation.
- 1.6 The working group shall report its findings to Business and Transformation Overview and Scrutiny Panel annually.

## **2. HOW AN APPOINTMENT SHALL BE MADE:**

- 2.1 Where a body is deemed to have met one or more of the criteria the Monitoring Officer will seek nominations for the appointment from either the Chief Executive where the appointment is an officer or, for councillor appointments, as follows:
- 2.1.1 Nominations to Key Strategic Partnerships will be made by the Leader of the Council.
  - 2.1.2 Nominations to Community Partnerships will be made by the relevant Group Leaders and recommended to the Council for approval at its Annual Meeting.
  - 2.1.3 Nominations to Area/Ward Partnerships will be made by the relevant Community Panel and should be those members who are able to adequately represent the relevant area or ward, usually the elected ward councillor.
- 2.2 All appointments are subject to annual change unless otherwise stated in the Constitution of the external body. Each appointment (including in-year replacements) runs for the municipal year, ending at the next Annual Council Meeting.
- 2.3 Appointment to a vacancy occurring during the municipal year will normally be made by the Monitoring Officer following consultation with the Leader of the Council (executive functions) or the political group leaders (Council functions).

# Part 4

## Codes and Protocols

This section includes Rules and Procedures which set out what members of the public can expect from elected Councillors and Council Officers. They include:

1. Councillor Code of Conduct
2. Officer Code of Conduct
3. Councillor/ Officer Protocol
4. Social Media Policy
4. LLG Planning Code of Good Practice for Councillors
5. Code of Practice for Property Transactions
6. Role of Councillors and Other Office Holders
7. LLG Monitoring Officer Protocol

## **Part 4 – Section 1 - Code of Conduct for Councillors**

[Appendix 2 Code of Conduct.pdf \(moderngov.co.uk\)](#)

## 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.
  - 1.6.8 **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.
  - 1.6.9 **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 Financial 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 22.6 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.

- Is the donor or event significant in the community or in your Council's area?
- Is there an expectation that a Council representative attends because of their role?
- Will the event be attended by others of a similar standing in the community or in other communities?
- What is the motivation behind the invitation?
- Would acceptance of the invitation be, in any way, inappropriate or place an employee under pressure in relation to any current or future issue?
- Could the decision to attend be justified to the Council, press and public?
- What is the hospitality or the nature of the gift and is it reasonable and appropriate in all of the circumstances to accept?
- 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 Councillors 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 Councillors 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 Councillors and Officers is essential to good local government. It is important in all dealings between Councillors and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.
- 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 Councillors. This Protocol seeks to set a framework that assists the working relationships between Councillors and Officers.

### **2 ROLE OF COUNCILLORS AND OFFICERS**

#### **Councillors**

- 2.1 The roles of Councillors and Officers are different, but complementary. Both Councillors and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a whole, and they are accountable to the Chief Executive. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council and Executive and the various Committees.
- 2.2 There are a number of crucial roles for Councillors. Four, in particular, can be summarised as follows:

- 2.2.1 to provide strong leadership for communities and to share in the policy and budget decisions of the full Council, suggest policy improvements and scrutinise the Executive'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;
  - 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 Councillors 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 Chief Officer Group, which provides a formal interface between Councillors 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 Councillors 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 Councillors do not, as elected or co-opted Councillors, have any special immunity from civil or criminal wrongs that they may commit against fellow Councillors, Officers or members of the public. Councillors must ensure that they do not, therefore, for example, bully, harass, slander or libel another person. During public meetings of the Council, the Executive and Committees, statements made by Councillors 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 Councillors 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 Councillor's alleged breach of the Council's Members' Code of Conduct and / or bring private, civil action against a Councillor.

### **Councillors' Expectations**

- 2.8 Councillors 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 Councillors' 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 employees will not use their relationship with Councillors 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 Councillors 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.

### **Officers' Expectations**

- 2.9 Officers can expect from Councillors:

- 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. Councillors should have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between Councillors and Officers, particularly at junior levels.
- 2.9.6 That Councillors 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 Councillors will at all times comply with the Members' Code of Conduct.
- 2.9.8 That Councillors will promote equality of opportunity in all Council matters.

### **Limitations on Behaviour**

- 2.10 The distinct roles of Councillors 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 Councillors 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 Councillor 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 Councillors 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 Councillor 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 COUNCILLORS**

- 3.1 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example, the Council's monthly Notice of Forthcoming Key Decisions will identify the Key Decisions that the Executive will be considering. Individual Councillors and/or groups of Councillors may properly call upon Officers to support and provide factual advice to their deliberations. The support provided by Officers can take many forms, ranging from a briefing meeting prior to a committee meeting, to a presentation to a full group meeting. Briefing of political groups should only be undertaken by the Chief Executive or 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, Councillors 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 Councillors meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Executive, Overview and Scrutiny or other Committee meeting when the matter in question is considered.
- 3.3 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group of Councillors, unless specifically asked to do so 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 Councillors should be raised with the Chief Executive or, in his absence, the Council's Monitoring Officer, who will discuss them with the relevant Group Leader(s).

#### **4 OFFICER / COUNCILLOR RELATIONSHIPS**

- 4.1 It is clearly important that there should be a close working relationship between Executive members and Committee members, including their Chairs, and the relevant Chief Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an Officer's ability to deal impartially with other Councillors.
- 4.2 Whilst Executive 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 Councillor will also be fully responsible for that part of any report submitted in their name. Any issues arising between a Councillor and an Officer in this area should be referred to the Chief Executive for their resolution. Where individual Councillors wish to place an item on a Executive 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 Councillor, 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 Councillor 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 Councillor 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. Councillors 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 Councillors 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 Councillor, 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 Councillors**

- 6.2 In the event that a Councillor 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 Director of Service. 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 COUNCILLORS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- 7.1 Subject to the Access to Information Procedure Rules, Councillors are free to approach the appropriate Service to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should be directed to the Director, Service Manager or other nominated representative. If Councillors wish to visit Officers, they should contact the Director or Service Manager to make arrangements whenever possible.

- 7.2 With respect to the legal rights of Councillors to inspect Council documents, these are covered partly by statute and partly by the common law, and are subject to the Access to Information Procedure Rules.
- 7.3 The exercise of the common law right depends upon a Councillor's ability to demonstrate a "need to know". In this respect a Councillor 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 Councillor should be provided in a timely manner. It should only be provided by the respective Department as long as it is within the limits of the Department's resources. For their part, Councillors 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 Councillors 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 Councillors 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 Councillor 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 Executive member or Committee Chair concerned should be advised about the information provided.
- 7.7 Any Councillor 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 Councillor must not disclose information given to the Councillor in confidence by anyone, or information which the Councillor believes, or ought reasonably to be aware, is of a confidential nature except where:
- (a) the Councillor has the consent of a person authorised to give it;
  - (b) the Councillor is required by law to do so;
  - (c) the disclosure is made to a third party for the purposes of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (d) the disclosure is reasonable and in the public interest and made in good faith and in accordance with the law.
- 7.9 In order to safeguard against possible breaches of the Data Protection Legislation (which applies to all information of a personal nature) a Councillor 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 Councillor and the Council at legal and financial risk.

## **8 ATTENDANCE OF OFFICERS AND COUNCILLORS AT OVERVIEW AND SCRUTINY COMMITTEES**

- 8.1 The Local Government Act 2000 empowers an Overview and Scrutiny Committee to require Executive members and Officers to attend meetings of the committee and answer questions. It is the statutory duty of Councillors 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 Councillor 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 Councillor or Officer appearing before it with respect and courtesy. The Councillor 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 Executive 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 Executive 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 COUNCILLORS 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 Councillors 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 Councillor. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor. It may be appropriate in some circumstances for a letter to be sent in the name of a Councillor, for example in response to a letter of complaint sent direct to that Councillor. But this should be the exception rather than the norm and it should only be done following consultation with the Chief Executive or appropriate Chief Officer.

## **11 MEDIA**

11.1 Communication with the media can be an important part of a Councillor's workload. In general, Councillors provide comment and views, as appropriate to their role, while employees provide factual information. If a Councillor has any queries regarding liaison with the media, they should contact the appropriate officer concerned or the Press Office.

11.2 Councillors 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 COUNCILLORS**

Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors representing the Ward or Wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Councillors should be notified at the outset of the exercise. More generally, Officers should consider whether other policy or briefing papers or other topics being discussed with an Executive member should be discussed with relevant Ward Councillors. Officers should seek the views of the appropriate Executive member(s) as to with whom and when this might be done.

## **13 CONCLUSION**

It is hoped that, by following good practice and securing sensible and practical working relationships between Councillors 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 Councillors and Officers.

## **Part 4 – Section 4 – Planning Code of Good Practice for Councillors**

[Layout 1 \(local.gov.uk\)](#)

## Part 4 – Section 5 – The Role of the Monitoring Officer

<link LGA the-role-of-the-monitoring-officer>

## **Part 5**

# **Scheme of Members Allowances**

The Council operates a scheme of members' allowances based upon recommendations of an Independent Remuneration Panel. All councillors receive a basic allowance and certain councillors and other co-opted members also receive special responsibility allowances as office holders. The scheme is regulated by the Local Government Act 2000, and the Local Authorities (Members' Allowances) Regulations 2003.



The Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003 has agreed the following Scheme after having regard to recommendations of the Independent Remuneration Panel.

## **1 CITATION**

This Scheme may be cited as the Cumberland Council Members' Allowances Scheme and has effect from the date approved by a meeting of Council.

## **2 INTERPRETATION**

2.1 In this Scheme,

2.1.1 "Member" means an elected representative of the Council who is a Councillor.

2.1.2 "Co-optee" means a person who is not a member of the Council but who has been appointed to serve as a member of a committee or sub-committee of the Council

2.1.3 "Year" means the period of 12 months ending on 31 March

## **3 BASIC ALLOWANCE**

3.1 A basic allowance of the amount specified in Appendix A is payable each Year to each Member. The basic allowance is inclusive of provision for IT allowances, all telephone and internet expenses (including mobile phone), office and all other expenses incurred in carrying out a Members' duties except where otherwise provided for in this Scheme or where facilities are provided free to Members by the Council.

## **4 SPECIAL RESPONSIBILITY ALLOWANCE**

4.1 A special responsibility allowance is payable to those Members who hold the special responsibilities in relation to the Council. The special responsibilities and the amounts of allowance payable are specified in Appendix A.

4.2 Only one special responsibility allowance is payable to each Member.

## **5 CHILD CARE AND DEPENDANT CARERS ALLOWANCES**

The conditions and rates are set out in Appendix A.

## **6 TRAVELLING AND SUBSISTENCE ALLOWANCES**

The conditions and rates are set out in Appendix A.

## **7 RENUNCIATION**

A Member or Co-optee may, by notice in writing to the Monitoring Officer, elect to forgo any part of their entitlement to the basic or special responsibility allowance under this Scheme. Any such decision will remain in force until a further notice in writing withdrawing it is made to the Monitoring Officer.

## **8 PART YEAR ENTITLEMENTS**

- 8.1 Where a Member holds the office of Member for less than a full year, the Member's entitlement to the basic allowance will be calculated on a pro rata basis by reference to the number of days the Member holds the term of office to the total number of days in that particular year.
- 8.2 Where a Member holds an office of special responsibility for less than a full year, the Member's entitlement to the special responsibility allowance will be calculated on a pro rata basis by reference to the number of days the Member holds the special responsibility to the total number of days in that year.
- 8.3 Appropriate adjustments will be made in respect of any basic or special responsibility allowance if any changes are made to the scheme during the year from which this scheme has effect.

## **9 CLAIMS AND PAYMENT OF ALLOWANCES**

- 9.1 Payments in respect of the basic and special responsibility allowances, will be made in instalments of one-twelfth of the amount of entitlement two weeks in arrears, 2 weeks in advance. Payment will be made through the payroll system on the same date as that applicable to employee salaries.
- 9.2 Claims for child carer and dependant carer, travel and subsistence allowances should be made on the approved forms, together with supporting receipts to [SERVICE] by no later than six months from the date of the duty in respect of which the entitlement to the allowance arose.
- 9.3 All payments will be made through the payroll system and will be taxable.

**Appendix A**

**[Detail of levels and categories of allowance to be input plus travel and subsistence rates etc**

# **Part 6**

## **Glossary**

<b>Agenda</b>	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.
<b>Annual Governance Statement</b>	<p>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.</p> <p>The Annual Governance Statement is prepared in accordance with the <b>CIPFA</b> Framework. The Annual Governance Statement must be published by the Council by 31 July each year. It is usually published alongside the Council's <b>Statement of Accounts</b>.</p>
<b>Audit Committee</b>	The Audit Committee considers the Council's governance arrangements and ensures that the financial affairs of the Council are properly conducted.
<b>Background Papers</b>	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
<b>Best Value</b>	<p>The general duty of Best Value means that the Council will make arrangements to secure value for money in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.</p> <p>When reviewing service provision the Council should consider overall value, including economic, environmental and social value.</p>
<b>Budget</b>	<p>All the financial resources allocated to different services and projects.</p> <p>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.</p>

<b>Budget and Policy Framework</b>	This 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 <b>Budget and Policy Framework</b> .
<b>Budget Council Meeting</b>	The meeting of the Council that takes place each year in order to calculate the budget requirement and set the council tax.
<b>Call-In</b>	A mechanism, which allows the Overview and Scrutiny Committee to examine, and challenge, a <b>key decision</b> before it is implemented.
<b>Chair of the Council</b>	The Councillor elected each year to act as Chair of the Council.
<b>Chief Executive</b>	The most senior officer, with overall responsibility for the management of the Council, also known as the Head of Paid Service.
<b>Chief Finance Officer</b>	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
<b>Chief Officer</b>	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 <b>Chief Finance Officer, Monitoring Officer</b> as well as any officers who report directly to the <b>Head of Paid Service</b> (but does not include secretarial, clerical or support staff).
<b>CIPFA</b>	The Chartered Institute of Public Finance and Accountancy.
<b>Clear Days</b>	By law, the Council must give five clear days' notice of a meeting, during this period copies of the agenda and reports of a meeting must normally be available for inspection under the Access to Information Procedure Rules. Clear days are complete days, not including the day on which the period begins or the day of the meeting or (where the number of clear days is to be less than seven) days which fall at the weekends, public holidays or bank holidays.
<b>Code of Conduct for Councillors</b>	The Code, formally adopted by the Council, which sets out the standards of behaviour expected of Councillors and co-opted members.
<b>Code of Conduct for Officers</b>	The Code which sets out the standards of behaviour expected of officers.

<b>Code of Corporate Governance</b>	The Code setting out the Council’s governance framework. The Code of Corporate Governance is prepared in accordance with the <b>CIPFA</b> Framework.
<b>Committee</b>	A formal group of Councillors appointed by Council and authorised to make executive or non- executive decisions.
<b>Confidential Information</b>	Information either given to the Council by the Government on terms which forbid its public disclosure or which cannot be publicly disclosed by Court Order.
<b>Constitution</b>	The document setting out how the Council operates, how decisions are made and all the procedures that have to be followed.
<b>Contracts Procedure Rules</b>	The rules which set out how the Council buys goods and services and enters into contracts.
<b>Co-optee/ Co-opted</b>	A person appointed to serve on a Committee/Sub-Committee in an advisory capacity. They are not Councillors and are not entitled to vote.
<b>Council companies</b>	A company in which the Council is a shareholder
<b>Council or Full Council</b>	The meeting of all Councillors of the Council
<b>Councillor</b>	A person elected by voters to be a member of the Council. Also known as a ‘Member’ of the Council.
<b>Councillors’ Planning Code of Good Practice</b>	The Code which sets out the standards of behaviour expected of Councillors on Planning Committee
<b>Council and Executive Forward Plan</b>	A list of all major decisions to be made by Council and <b>key decisions</b> to made by <b>Executive</b>
<b>Data Protection Legislation</b>	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
<b>Designated Statutory Officer</b>	For the purposes of appointment, disciplinary processes and dismissal, the term shall include the following officers: <ul style="list-style-type: none"> <li>• <b>Head of Paid Service</b></li> <li>• <b>Monitoring Officer</b></li> <li>• <b>Chief Finance Officer (Section 151 Officer)</b></li> </ul>

<b>Development Plan</b>	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
<b>Executive</b>	The collective term for the <b>Leader</b> of the Council, up to 9 individual <b>Executive Councillors</b> or a committee of the Executive.
<b>Executive Board</b>	The meeting of Chief Officers, also referred to as <b>Executive Directors</b>
<b>Executive Councillor</b>	The <b>Leader</b> , Deputy Leader and up to 8 other Councillors who, together, form the Executive and each have specific responsibilities (a “ <b>Portfolio</b> ”). Also known as “Executive Members” or “Portfolio Holders”.
<b>Executive Decisions</b>	Those decisions which are, by law, for the Executive to make. These are set out in the Local Authorities (Functions and Responsibilities) Regulations 2000 as amended. As the Council has adopted a Leader plus Executive model of governance, the majority of the Council’s decisions are Executive decisions. These decisions may be the responsibility of the <b>Leader</b> , the <b>Executive</b> as a collective, individual <b>Executive Councillors</b> , a committee of the Executive, a joint committee, another local authority, or officers.
<b>Exempt Information</b>	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 <b>Part 3</b> .
<b>Financial Procedure Rules</b>	The Rules which sets out how the Council manages its finances in order to safeguard public money
<b>Group Leaders</b>	The Councillor who is appointed by a political group to act as the leader of that group of Councillors.
<b>Head of Paid Service</b>	The most senior officer, with overall responsibility for the management and operation of the Council; also known as the <b>Chief Executive</b> .
<b>Independent Persons Panel</b>	The Panel established by the Council to review the recommendations of the <b>Investigation and Disciplinary Committee</b> into <b>Statutory Officer</b> discipline and compile a recommendation of its own for consideration by the Council.



<b>Investigation and Disciplinary Committee (IDC)</b>	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 <b>Chief Executive (Head of Paid Service)</b> , <b>Chief Finance Officer</b> and <b>Monitoring Officer</b> .
<b>Joint Committee</b>	A committee appointed jointly by the Council and one or more other Council's to jointly oversee carrying out functions.
<b>Key Decision</b>	<p>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, and/or is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the Council.</p> <p>For these purposes, savings and expenditure are "significant" if they are equal to or greater than £500,000 or if, notwithstanding the value, the decision will have a significant effect on the communities living or working in one or more wards of the Council's area, for example by changing the nature of a school, opening or closing council services or facilities, or major transport changes.</p> <p>For clarification, no <b>treasury management</b> decision shall constitute a Key Decision.</p>
<b>Leader</b>	The person elected as the Leader of the majority party and Leader of the Council. They are responsible for carrying out the <b>executive functions</b> of the Council.
<b>Licensing Committee</b>	The committee that carries out the Council's responsibilities under the Licensing Act 2003 Act and the Gambling Act 2005.
<b>Local Choice Functions</b>	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.
<b>Local Government Application Note</b>	The guidance note on the requirements and practice of internal audit in the local government environment, in line with <b>Public Sector Internal Audit Standards</b> .
<b>Monitoring Officer</b>	The officer designated to perform the statutory role under s5 Local Government and Housing Act 1989 to of ensuring that everything that the Council does is fair and lawful.

<b>Non-Executive Functions</b>	Those functions specified in the Local Authority (Functions and Responsibilities) (England) Regulations 2000 as amended which are not to be the responsibility of the Executive. These include functions such as those relating to Officers, Planning and Licensing. These functions may be delegated to Committees, Sub-Committees or Officers under Section 101 of the Local Government Act 1972 ("the 1972 Act").
<b>Officer</b>	A person employed by the Council to carry out the work of the authority. Officers cannot be Councillors of the Authority which employs them.
<b>Officer Scheme of Delegation</b>	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.
<b>Overview &amp; Scrutiny</b>	<p>A way of providing support and advice to the <b>Executive</b> by contributing to the review and development of policy; and acting as a critical friend holding the Executive to account by questioning, challenging and monitoring their performance.</p> <p>This function is currently undertaken by the Overview and Scrutiny Committees</p>
<b>Planning Committee</b>	The committee of Councillors which makes planning decisions (not delegated to officers) on behalf of the Council.
<b>Political Balance</b>	<p>Political balance means:</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(ii) That the majority of seats on the body are allocated to the political group holding the majority of seats on the Council;</li> <li>(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</li> <li>(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.</li> </ul>
<b>Political Group</b>	Two or more Councillors who have joined together and asked to be recognised as a political group.

<b>Politically Restricted Post</b>	Employees in politically restricted posts are prevented from having any active political role either in or outside of work
<b>Portfolios/Portfolio Holder</b>	A portfolio describes the specific responsibilities delegated by the Leader of the Council to an Executive Councillor, for which they are the “portfolio holder”.
<b>Private Meeting</b>	A private meeting’ means a meeting or part of a meeting of the <b>Executive</b> or an <b>Executive</b> Committee during which the public are excluded in accordance with Standing Order 42 (Exclusion of Access by the Public to Meetings).
<b>Procedure Rules</b>	The rules governing the processes of the Council’s decision-making
<b>Proper Officer</b>	An officer designated as being responsible for a specific function.
<b>Protocols</b>	Codes of Practice, which set out how, for example, various elements of the Council, are expected to interact with each other.
<b>Public Sector Internal Audit Standards</b>	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.
<b>Quorum</b>	The minimum number of Councillors who have to be present before a formal meeting can take place.
<b>Section 151 Officer</b>	The officer who has statutory responsibility (under section 151 of the Local Government Act 1972) for the administration of the financial affairs of the Council. Also known as the <b>Chief Finance Officer</b> .
<b>Significant</b>	Having a material effect on the provision of services in one or more wards in Cumberland District
<b>Standards Committee</b>	A 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**, the **Chief Finance Officer**, the Director of Adults Services and the Director of Children's Services

**Sub-Committee**

A group of Councillors appointed by a parent committee and authorised by that committee to make particular executive 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.

# **Part 7**

## **List of associated documents**

# Part 8

## Senior Management Structure

